



Lead and Copper Rule

2007 Short-Term Regulatory

Revisions and Clarifications

State Implementation Guidance

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LIST OF ACRONYMS AND ABBREVIATIONS

AL	Action Level
ANSI	American National Standards Institute
CCR	Consumer Confidence Report
CCT	Corrosion Control Treatment
CFR	Code of Federal Regulations
Cu	Copper
CWS	Community Water System
CY	Calendar Year
EPA	Environmental Protection Agency
EPTDS	Entry Point to the Distribution System
FR	Federal Register
GWUDI	Ground Water under the Direct Influence of Surface Water
LCR	Lead and Copper Rule
LCRMR	Lead and Copper Rule Minor Revisions
LSL	Lead Service Line
LSLR	Lead Service Line Replacement
M/R	Monitoring and Reporting (Violation)
MCLG	Maximum Contaminant Level Goal
mg/L	Milligrams per Liter
MPL	Maximum Permissible Level
NPDWR	National Primary Drinking Water Regulation
NTNCWS	Non-Transient Non-Community Water System
OCCT	Optimal Corrosion Control Treatment
OGC	Office of General Counsel
OGWDW	Office of Ground Water and Drinking Water
ORC	Office of Regional Counsel
OWQP	Optimal Water Quality Parameter
Pb	Lead
PE	Public Education
ppb	parts per billion
POE	Point-of-Entry (Treatment)
POU	Point-of-Use (Treatment)
PSA	Public Service Announcement
PWS	Public Water System
PWSS	Public Water System Supervision (Program)
RC	Regional Counsel
SDWA	Safe Drinking Water Act
SDWIS/ODS	Safe Drinking Water Information System/Operational Data System
SNC	Significant Non-Compliance or Significant Non-Complier
SOWT	Source Water Treatment
TT	Treatment Technique (Violation)
WIC	Women, Infants, and Children Program
WQP	Water Quality Parameter
XML	Extensible Markup Language

INTRODUCTION

This document provides guidance to U.S. Environmental Protection Agency (EPA) Regions, States and Tribes exercising primary enforcement responsibility under the Safe Drinking Water Act (SDWA) regarding implementation of the October 10, 2007, Lead and Copper Rule Short-Term Regulatory Revisions and Clarifications (hereafter referred to as the “Short-Term Revisions”). It also provides guidance to the public and the regulated community regarding EPA’s interpretation of the statute and regulations. This guidance is designed to implement national policy on these issues.

The SDWA provisions and EPA regulations described in this document contain legally-binding requirements. This document does not substitute for those requirements, nor is it a regulation itself. It does not impose legally-binding requirements on EPA, States, Tribes, or the regulated community and may not apply to a particular situation based upon the circumstances. EPA and State decision makers retain the discretion to adopt approaches on a case-by-case basis that differ from this guidance, where appropriate. Any decisions regarding a particular facility will be made based on the applicable statutes and regulations. Therefore, interested parties are free to raise questions and objections about the appropriateness of the application of this guidance to a particular situation. EPA will then consider whether or not the recommendations or interpretations in the guidance are appropriate in that situation based on the law and regulations. EPA may change this guidance in the future.

This manual contains the following sections:

- **Section I - Overview**, explains the purpose of the Short-Term Revisions, the regulatory history of the Lead and Copper Rule (LCR), the development and benefits of the Short-Term Revisions, their effective and compliance dates, and key dates for implementation and State and Tribal adoption of the Short-Term Revisions.
- **Section II - Rule Requirements**, provides a detailed explanation of the seven major areas that were targeted by the Short-Term Revisions and those revisions that EPA considered but did not promulgate. This section also includes examples to help clarify these Short-Term Revisions.
- **Section III - State Reporting Requirements and SNC Definitions** highlights the new State reporting requirement and provides an overview of LCR significant non-complier (SNC) definitions.
- **Section IV - Revisions by Rule Section**, summarizes the Short-Term Revisions by federal rule.
- **Section V - Primacy Revision Application for the LCR Short-Term Revisions** includes a detailed timetable for the application review and approval process.

The appendices of this document also provide information that will be useful to States, Tribes and EPA Regions throughout the primacy revision application process.

- **Appendix A** contains the primacy revision application crosswalk for the Rule.
- **Appendix B** contains a comparison of the Short-Term Revisions against the previous version of the LCR using the redline (or red text) and strikeout features of MS Word.

- **Appendix C** contains fact sheets that explain the Short-Term Revisions.
- **Appendix D** provides a sample lead consumer notice certification form that States and systems may adapt for their use.
- **Appendix E** includes a detailed explanation and examples of how to report the new lead consumer notice violation to EPA.

SECTION I: OVERVIEW

A. Purpose of the Rule Revisions

The purpose of this summary is to acquaint State decision makers and public health officials with the Lead and Copper Rule (LCR) Short-Term Revisions. These Short-Term Revisions were published in the *Federal Register* on October 10, 2007 (72 FR 57782); www.epa.gov/safewater/lcrmr/index.html). The purpose of the Short-Term Revisions is to strengthen the implementation of the LCR in the following areas: monitoring, treatment processes, public education, customer awareness, and lead service line replacement. These changes provide more effective protection of public health by reducing exposure to lead in drinking water.

The Short-Term Revisions do not change the action levels of 0.015 milligrams per liter (mg/L) for lead and 1.3 mg/L for copper, or the maximum contaminant level goals (MCLGs) established by the 1991 LCR, which are 0 mg/L for lead and 1.3 mg/L for copper. They also do not affect the Rule's basic requirements to optimize corrosion control and, if appropriate, treat source water, deliver public education, and replace lead service lines. The Short-Term Revisions continue to exclude transient non-community water systems from the requirements of the Rule.

B. LCR Regulatory History

EPA promulgated MCLGs and National Primary Drinking Water Regulations (NPDWRs) for lead and copper in 1991 (56 FR 26460, June 7, 1991). The goal of the LCR is to provide maximum human health protection by reducing lead and copper levels at consumers' taps to as close to the MCLGs as is feasible. To accomplish this goal, the LCR establishes requirements for community water systems (CWSs) and non-transient non-community water systems (NTNCWSs) to optimize corrosion control and conduct periodic monitoring. Systems are required to perform public education when there are lead action level exceedances at more than 10 percent of the taps that are sampled, treat source water if it contributes significantly to lead and copper levels at the tap, and replace lead service lines in the distribution system if the lead level at the tap continues to exceed the action level after optimal corrosion control and/or source water treatment has been installed.

EPA proposed minor revisions to the LCR (LCRMR) in 1996 (60 FR 16348) and finalized these minor revisions on January 12, 2000 (65 FR 1950). These minor revisions streamlined the requirements of the LCR, promoted consistent national implementation, and reduced the reporting burden to affected entities. These minor revisions also addressed the areas of optimal corrosion control demonstration, lead service line replacement requirements, public education requirements, monitoring requirements, analytical methods, reporting and recordkeeping requirements, and special primacy considerations. The LCRMR did not change the action level, MCLG, or the rule's basic requirements.

Despite the LCRMR, some questions remained regarding 90th percentile calculations and monitoring requirements. In 2004, EPA issued two memoranda to address these questions. The March 9, 2004 memorandum from Cynthia C. Dougherty, the EPA Office of Ground Water and Drinking Water (OGWDW) Director, responded to the issue of whether a 90th percentile calculation could be determined if the minimum number of samples were not collected. This memorandum stated that in this instance, the 90th percentile level would be based on the number of samples collected. For example, if 3 samples were collected, the 90th percentile would be based on the 2.7th sample (i.e., 0.9 multiplied by the number of samples). The 90th percentile is calculated by rounding to the nearest whole number (the 3rd or highest sample result in this example) or by interpolation (using the 2nd and 3rd sample results in this example). If the 90th percentile level exceeded the action level, the system would be triggered into the required follow-up actions. In addition, the public water system (PWS) would be assigned a lead and copper tap monitoring and reporting (M/R) violation.

The second memorandum was issued on November 23, 2004 by Benjamin H Grumbles, Assistant Administrator for the EPA Office of Water. This memo clarified those LCR requirements associated with the collection and management of lead and copper samples and reiterated the guidance provided in the March 9, 2004 memo regarding 90th percentile calculations. It addressed the following questions regarding sampling: 1) samples to be used for 90th percentile calculations; 2) what PWSs should do with results from customer-requested samples; 3) what to do with samples collected outside the compliance period; 4) what constitutes a proper sample; 5) how PWSs can avoid problems with sample collection; and 6) sample invalidation criteria. EPA also prepared an accompanying fact sheet, *Clarification of Requirements for Collecting Samples and Calculating Compliance Fact Sheet* (EPA 810-F-04-001).

The Short-Term Revisions supersede the memos related to the requirements for calculating the 90th percentile level when the system has fewer than five taps and the State allows a reduction in the number of samples. The revised 40 CFR §141.86(c), clarifies the monitoring requirements for PWSs with fewer than five drinking water taps that can be used for human consumption and that meet the site-selection criteria. These systems must collect at least one sample from each tap and additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively, the State may grant its approval in writing to allow these PWSs to collect fewer than five samples, if all taps that can be used for human consumption are sampled. The newly added §141.80(c)(5) specifies that for systems that are allowed to collect fewer than five samples, the highest test result is the 90th percentile level. In addition, these systems would not be assigned an M/R violation. However, those PWSs that collect fewer than five samples without State written approval would be assigned an M/R violation.



These memoranda and the fact sheet can be downloaded at <http://www.epa.gov/safewater/lcrmr/compliancehelp.html>. Please note that the Short-Term Revisions supersede the guidance in these documents regarding the 90th percentile calculation when a system is allowed to collect fewer than five samples.

C. Development of the LCR Short-Term Revisions

In 2004, the District of Columbia experienced incidences of elevated lead levels in drinking water, which prompted EPA to initiate a comprehensive national review of the LCR to evaluate the implementation and effectiveness of the rule. The purpose of the review was to determine whether elevated lead levels in drinking water were a national problem; if a large percentage of the population received water that exceeded the lead action level; if a significant number of systems failed to meet the action level; how well the existing LCR worked to reduce drinking water lead levels; and if the regulation was being effectively implemented, especially with respect to monitoring and public education requirements. EPA's comprehensive review consisted of several elements, including a series of workshops designed to solicit ideas, comments, and suggestions from stakeholders on particular issues; a review of monitoring data to evaluate the effectiveness of the LCR; and a review of the LCR implementation by States and water utilities. As a result of this multi-part review, EPA identified seven targeted rule changes intended to strengthen the implementation of the LCR in the areas of monitoring, consumer awareness, State notification of long term treatment changes, and lead service line replacement in the short-term. The short-term changes are expected to ensure and enhance protection of public health by reducing exposure to lead in drinking water. The final rule does not amend the portion of the regulations related to copper; however, provisions addressing copper will be considered for future revisions to the rule. EPA will propose any future regulatory changes under a separate regulatory action.

D. Benefits of the LCR Short-Term Revisions

The intent of the 2007 rulemaking is to improve implementation of the LCR by clarifying monitoring requirements, improving consumer awareness, and modifying the lead service line "replaced through testing" provision. The Short-Term Revisions do not affect the action levels, corrosion control requirements, other lead service line replacement requirements, or other provisions in the existing rule that directly determine the degree to which the rule reduces risks from lead and copper.

However, the increase in administrative activities that will result from the Short-Term Revisions will generate new information (e.g., more monitoring data, some of which may show exceedances), and may prompt some systems or individuals to respond to this new information by taking measures to abate lead and copper exposures and thus reduce the associated risk. Also, the requirement that long-term treatment changes be approved by the Primacy Agency prior to implementation will provide an additional opportunity to identify possible adverse impacts due to treatment changes, which may lower the risk to consumers.

Because the precise impact of the Short-Term Revisions on the behavior of individuals and systems is not known, EPA has not quantified the changes in associated health benefits. However, EPA does expect that overall benefits from the LCR will increase, as a result of the indirect effects of the Short-Term Revisions on the actions of individual consumers and systems.

E. Effective and Compliance Dates

The Short-Term Revisions were published on October 10, 2007. As of December 10, 2007, they became law (effective), thereby amending the previous version of the regulation. The compliance date for all of the provisions of this Rule is 180 days after publication in the *Federal Register* (i.e., April 7, 2008), except if by that date, the State has not adopted this rule, in which case compliance with this final rule is required the earlier of either the State's adoption of the rule, or two years after December 10, 2007. Systems for which EPA is the Primacy Agency (i.e., Wyoming, DC, and most Indian territories) and in States that incorporate EPA's drinking water regulations by reference automatically or incorporate based on the Federal publication date must begin complying with the Short-Term Revisions on April 7, 2008.

States with primacy for the drinking water program are required to adopt State regulations and submit a revised primacy application package to EPA by December 10, 2009. A State may request an extension for up to 2 years, or until December 10, 2011, if it can demonstrate that it cannot meet the December 10, 2009 deadline for reasons beyond its control, despite a good faith effort to do so. States have the flexibility of choosing early implementation, enabling the water systems to take advantage of the efficiencies in the new regulations in less than the required two years. For States that adopt this rule after six months but before two years or December 10, 2009, the Short-Term Revisions will be effect on the date that the State rule is effective.

F. Key Dates of the Rule

Exhibit I-1 presents the timetable for implementation of the Short-Term Revisions including the schedule for States to prepare and submit a revised primacy package.

Exhibit I-1. Timetable for the LCR Short-Term Revision Requirements	
Date	Requirements
October 10, 2007	Rule is published in <i>Federal Register</i> [72 FR 57782].
December 10, 2007	Rule effective date. ¹
December 10, 2007 (recommended)	State and EPA region establish a process and agree upon a schedule for application review and approval. (See Section V for more detail.)
April 7, 2008	Rule compliance date for States adopting by reference or where EPA has primacy. ²
April 10, 2008 (recommended)	State, at its option, submits <i>draft</i> primacy program revision package. (See Section V for more detail.)
July 1, 2009	All systems where EPA is the Primacy Agency, systems in States that adopt by reference automatically or during 2008, should comply with the new requirement in the Consumer Confidence Report (CCR) due July 2009 (i.e., the 2008 CCR).
Completed within 90 days of State submittal of draft	Regional (and Headquarters, if necessary) review of draft primacy revision package. (See Section V for more detail.)
December 10, 2009 ^{3, 4}	State submits final primacy program revision package. (Refer to Section V for more detail.)
July 1, 2010	All systems in States that adopt the rule in 2009 should comply with the new requirement in the CCR due July 2010 (i.e., the 2009 CCR).
December 10, 2011 ⁵	States with approved extensions submit complete and final primacy program revision package. (See Section V for more detail.)
Completed within 90 days of State submittal of final	EPA final review and determination regarding State's final primacy program revision package. (See Section V for more detail.)
¹ The effective date is when the Short-Term Revisions become law and amend the previous version of the LCR. ² The compliance date is when the Primacy Agency will begin implementing (and systems must begin complying with) the requirements of the Short-Term Revisions. The earliest compliance date is April 7, 2008 and will apply to those systems where EPA is the Primacy Agency or in States that adopt the Rule by reference automatically or incorporate based on the Federal publication date. ³ EPA suggests submitting an application by September 10, 2009, to ensure timely approval. The regulations provide until December 10, 2009, for this submittal. ⁴ The latest compliance date for all CWS and NTNCWS is December 10, 2009, which also applies to those systems in States that have not adopted the Rule by that date. ⁵ EPA suggests submitting an application by September 10, 2011 for States with approved extensions to ensure timely approval. The regulations provide until December 10, 2011, for this submittal.	

SECTION II: RULE REQUIREMENTS

Section I described each of the federal rule sections that were revised by the Short-Term Revisions. The discussion in this section is organized by each of the following areas:

- Minimum number of samples required;
- Definitions for compliance and monitoring periods/timing of actions;
- Reduced monitoring criteria;
- Consumer notice of lead tap water monitoring results;
- Advanced notification and approval of long-term treatment changes and source additions;
- Public education requirements
- Consumer confidence report; and
- Reevaluation of lead service lines.

This section also includes an explanation of four areas on which EPA requested comment but decided not to promulgate in the Short-Term Revisions.

Exhibit II-1 provides a summary of the new requirements of the Short-Term Revisions compared to the requirements under the 1991 Rule as amended by the LCRMR

Exhibit II-1. Summary of New Requirements under the Short-Term Revisions		
Federal Citation	New Requirements under the Short-Term Revisions	Previously Required under the 1991 Rule as Amended by LCRMR
Minimum Number of Samples Required		
§141.80(c)(3)(v)	For public water systems (PWSs) collecting < 5 samples, the 90 th percentile value is the highest concentration.	PWSs could not collect < 5 samples.
§141.86(c)	PWSs with < 5 taps must collect more than 1 sample from the same site on alternate days; or with written State permission, can collect < 5 samples if all available drinking water taps are sampled.	
Compliance and Monitoring Period Definitions and Timing of Actions		
Clarification Regarding End of Monitoring Period		
§141.84(b)(1); §141.85(b)(2)(vii); §141.85(b)(4)(iii); §141.88(b)	To help clarify the timing of requirements, the end of the reduced lead and copper tap monitoring period is defined as September 30 or the last day of the State-established alternate period.	Rule did not include this clarification.
Timing Following an Action Level Exceedance		
§141.81(e)(1); §141.81(e)(2); §141.81(e)(2)(i); §141.81(e)(2)(ii)	The number of months to complete a corrosion control treatment (CCT) step (i.e., treatment recommendation, need for CCT study, State designation of CCT) is counted from the end of the monitoring period during which the action level exceedance (ALE) occurred.	Corrosion control treatment steps were counted as a specified number of months “after the exceedance occurred.”

Exhibit II-I. Summary of New Requirements under the Short-Term Revisions

Federal Citation	New Requirements under the Short-Term Revisions	Previously Required under the 1991 Rule as Amended by LCRMR
§141.83(a); §141.88(b)	PWS must conduct initial source water monitoring and provide source water treatment (SOWT) recommendation to the State within 180 days after the end of the monitoring period in which the ALE occurred.	This information was due within 6 months after exceeding an action level (AL).
§141.84(b)(1)	The first year of lead service line replacement (LSLR) begins on the first day following the end of the monitoring period in which the lead ALE occurred after installing the required treatment(s).	First year of LSLR began on the date the lead AL was exceeded after installing the required treatment(s).
§141.85(b)(2); §141.85(b)(4)	PWSs initiating or recommending public education must deliver public education within 60 days after the end of the monitoring period in which the lead ALE occurred.	Rule required public education to be delivered within 60 days after the ALE.
§141.90(e)(1)	The material evaluation identifying the initial number of LSLs is due 12 months after the end of monitoring period in which the system is triggered into LSLR.	This information was due 12 months after the ALE.
	Defines the initial number of LSLs as the number in the distribution system during the monitoring period that triggered the PWS into LSLR (<i>also-defined in §141.84(b).</i>)	The definition of initial number of LSLs was defined in §141.84(b) only.
§141.90(e)(2)	Documentation that demonstrates compliance with replacement requirements is due 12 months after the end of the monitoring period in which the lead ALE occurred after initiating LSLR.	This information was due 12 months after the ALE.
Lead and Copper Reduced Monitoring Clarifications		
§141.86(d)(4)(i)	Annual monitoring begins in the next calendar year (CY) for small or medium PWSs that collect < 5 samples and meet both ALs for 2 consecutive 6-month periods.	PWSs could not collect < 5 samples. Rule did not specify when annual lead and copper tap monitoring would begin.
§141.86(d)(4)(iii)	Triennial monitoring must be conducted no later than every third CY.	Rule did not contain this language.
§141.86(d)(4)(iv) (A)	PWSs on a State-specified 4-month monitoring schedule must begin annual monitoring during the CY after the end of the second 6-month monitoring period, or after the end of the 3-year period for triennial monitoring, in which they qualify for reduced monitoring.	Rule did not specify when annual or triennial monitoring must begin for a system on a State-specified alternate 4-month monitoring schedule
§141.86(d)(4)(vi) (B)	PWSs on reduced monitoring must return to standard monitoring if they have a lead ALE or an optimal water quality parameter (OWQP) excursion. Standard monitoring must resume January 1 of the CY following the lead ALE or OWQP excursion.	Rule did not require PWSs to return to standard monitoring if they met their OWQPs but had a lead ALE; nor did it specify the date by when standard monitoring would resume.
§141.86(d)(4)(vi) (B)(1)	PWSs can resume annual monitoring in the CY following the end of the second consecutive 6-month monitoring period in which they met the lead AL and OWQPs.	Rule did not specify when reduced monitoring would begin.
§141.86(g)(4)(i)	PWSs on a 9-year monitoring waiver must collect samples no later than every ninth CY.	Rule did not include this clarification.

Exhibit II-I. Summary of New Requirements under the Short-Term Revisions

Federal Citation	New Requirements under the Short-Term Revisions	Previously Required under the 1991 Rule as Amended by LCRMR
§141.90(a)(1)	For monitoring periods of < 6 months (e.g., 4-month tap monitoring), the monitoring period end is the last date samples can be collected during that period (e.g., Sept. 30).	Rule did not include this clarification.
Water Quality Parameter Monitoring		
§141.87(d)	Large PWSs must begin water quality parameter (WQP) monitoring in the first 6-month period after the State sets OWQPs.	Large PWSs were required to begin WQP monitoring on the date the State set OWQPs.
	For small or medium PWSs that exceed an AL during reduced lead and copper tap monitoring, the first 6-month WQP monitoring period is the same as the lead and copper tap monitoring period in which the ALE occurred.	Rule synchronized the <i>end</i> of the 6-month period for WQP monitoring with the <i>end</i> of the reduced lead and copper tap monitoring period during which an AL was exceeded.
§141.87(e)(2)(i)	Annual WQP tap monitoring for qualifying systems must begin during the CY following the end of the monitoring period in which the third consecutive year of 6-month monitoring occurs. Triennial monitoring must begin no later than 3 CYs after the PWS qualifies for triennial monitoring.	Rule did not include these clarifications.
§141.87(e)(2)(ii)	Triennial WQP monitoring must be conducted no later than every third CY.	Rule did not include this clarification.
Source Water Monitoring		
§141.88(d)(1)(i)	PWSs on triennial source water monitoring must collect samples at least every 3 years.	Required samples to be collected once during the 3-year compliance period.
§141.88(d)(1)(ii)	The first annual source water monitoring period begins during the year in which the State sets MPLs or determined that no SOWT is needed.	Required this monitoring to begin on the date that the State set MPLs or determined that SOWT was not needed.
§§141.88(e)(1) & (e)(2)	PWSs on 9-year source water monitoring must collect samples at least every 9 years.	Required samples to be collected once during the 9-year compliance cycle.
Lead and Copper Tap Reduced Monitoring Criteria		
§141.86(d)(4)(ii); §141.86(d)(4)(iii)	All PWSs must meet the lead AL as a condition of reduced lead and copper tap monitoring.	PWSs could qualify for reduced monitoring based on meeting their OWQPs only.
Consumer Notice of Lead Results		
§141.80(g); §141.85(d)	PWSs must provide lead tap sampling results, lead health effects language, steps to reduce exposure, contact information, and the lead MCLG and AL values and definitions to persons served at tested sites within 30 days of learning of results.	PWSs were not required to notify individual homeowners of their tap monitoring results.
§141.90(f)(3)	PWSs must provide the State with a sample consumer notification and certification of its proper delivery within 3 months after the end of the applicable monitoring period.	Rule did not require lead consumer notice or the corresponding State reporting requirement.

Exhibit II-1. Summary of New Requirements under the Short-Term Revisions

Federal Citation	New Requirements under the Short-Term Revisions	Previously Required under the 1991 Rule as Amended by LCRMR
Advanced Notification/Approval of Long-Term Treatment Changes and Source Additions		
§141.81(b)(iii); §141.86(d)(4)(vii); §141.86(g)(4)(iii)	PWSs on reduced lead and copper tap monitoring must report any <i>upcoming long-term</i> change in treatment or any source addition to the State and must receive prior approval before implementing the change or addition.	Rule did not specify that treatment changes had to be “long-term.” Prior State approval was not needed before implementing the change or source addition.
§141.90(a)(3)	The notification must be in writing, at a time specified by their State, or as soon as possible before making the change or addition.	PWSs were encouraged to provide prior notification but were required to provide it within 60 days after the addition or change.
Public Education		
§141.85(a)(1)	Requires CWSs and NTNCWSs to deliver the same mandatory language. Adds flexibility for PWSs to tailor the language for other required topics. PWSs must submit public education language for State review and approval at the State’s option.	CWSs and NTNCWSs had separate mandatory language. Rule did not allow the PWS to tailor the language. Since all PE language was mandatory, the Rule did not include an optional provision requiring prior State review and approval of the language.
§141.85(a)(2)	Requires additional information to be included in CWS materials.	
§141.85(b)(1)	For PWSs serving a large percent of non-English speaking consumers, the notice must include in appropriate languages: its importance, or where to get a translated copy or needed assistance.	PWSs were required to provide materials in other languages in those communities where a significant proportion spoke a language other than English.
§141.85(b)(2)	For CWSs, adds organizations that PWSs must partner with (including those outside service area) to disseminate the message to at-risk populations as well as changes the ways information is disseminated.	Delivery was limited to organizations within service area. Rule included fewer public education activities.
§141.85(b)(2); §141.85(b)(5)	Allows State to extend 60-day timeframe for completion of public education if system has initiated public education.	This extension was not allowed.
Consumer Confidence Report Rule		
§141.154	All CWSs must include mandatory language about lead, health effects language, and ways to reduce exposure to lead in every CCR. CWSs may write their own educational statements in consultation with the State.	Only CWSs that detected lead above 15 ppb in > 5% of homes sampled had to provide an informational statement. CCR Rule included suggested language that was less specific in several areas.
Reevaluation of Lead Service Lines		
§141.84(b)(2)	PWSs that resume LSLR must update their LSL inventory to include those that were classified as “replaced through testing.”	PWSs were not required to retest lines that were considered “replaced through testing.”



Some of the Short-Term Revisions may require changes to system sampling plans. States should ensure that their water systems are aware of these revisions and that the appropriate changes are made to these plans.

A. Minimum Number of Samples Required

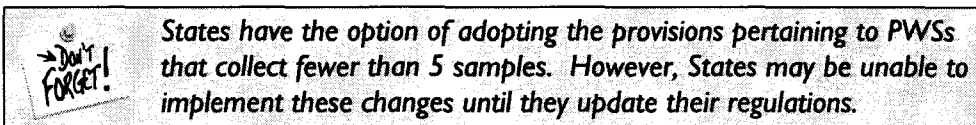
The Short-Term Revisions clarify the minimum sampling requirement for water systems that have fewer than five taps and the meaning of the term “site” by amending §141.86(c). In the original 1991 LCR, the term “site” was relevant for determining the number of samples collected. However, the term was confusing as to whether it referred to the taps from which the samples were collected or the buildings in which the taps were located.

Specific revisions to §141.86(c) are:

- A clarification that sampling “sites” refer to “taps that can be used for human consumption,” such as kitchen and bathroom taps as opposed to outlets such as hose bibs or taps at utility sinks.
- A clarification that systems with fewer than five taps that can be used for human consumption must sample all taps at least once and then take repeat samples on different days until a total of five samples are obtained (except as noted in the next bullet).
- A new provision that gives States the discretion to allow water systems that have fewer than five taps to collect one sample from each tap that can be used for human consumption. To qualify for this provision, a water system may request approval from the State. The State approval must be in writing and based on the water system’s request or an on-site visit verification.

EPA has added regulatory language to two other sections that pertain to systems that receive State permission to collect fewer than five samples as follows:

- §141.80(c)(5) requires systems with fewer than five samples to use the highest test result as the 90th percentile level. If this result exceeds the action level, then the system must complete appropriate follow-up actions (e.g., public education, corrosion control treatment, and lead service line replacement).
- §141.86(d)(4)(i) allows these water systems to reduce the lead and copper sampling frequency to once per year but requires systems to collect at least one sample per tap that can be used for human consumption. *[Note: §141.86(d)(4)(iii) allows water systems to further reduce their lead and copper tap monitoring frequency to triennially. Although, the Short-Term Revisions do not include specific language allowing systems that monitor triennially to collect fewer than five samples but at least one sample per tap that can be used for human consumption, EPA interprets the regulation to allow this.]*



B. Definitions for Compliance and Monitoring Periods

The Short-Term Revisions clarify the “compliance period” as a three-year calendar period and the “monitoring period” as the specific period in which water systems must conduct required monitoring (e.g., for systems on reduced monitoring, the four-month period of June through September or an alternate four-month period specified by the State). In addition, the Short-Term Revisions provide a number of clarifications throughout the rule to explain when compliance and monitoring periods begin and end. These clarifications help define the timing of actions following a lead or copper action level exceedance; the timing of monitoring activities related to reduced monitoring schedules; and reporting requirements, as described in more detail below.

B.1 Timing of Follow-up Actions

Under the previous regulations, there was uncertainty about when a system was determined to have exceeded the action level and the corresponding deadlines for completing corrosion control studies, lead service line replacement, and public education (e.g., end of December or the end of September for systems monitoring during June through September). The Short-Term Revisions clarify that a system has exceeded an action level as of the date on which the monitoring period ended (e.g., on September 30). This clarification is also intended to ensure that the system and the State begin actions to reduce exposure (e.g., corrosion control, public education, and lead service line replacement) as soon as possible. The deadlines for completing these follow-up activities will be calculated from the date the system is determined to be exceeding the action level (i.e., the end of the monitoring period).

Exhibit II-2 lists the LCR rule sections and corresponding requirements to which EPA has added language that clarifies the timing of actions following an action level exceedance.

Exhibit II-2. Time Frame for Action Level Exceedance Follow-up Activities		
Federal Citation	Requirement	Deadline¹
§141.81(e)(1)	System recommends optimal corrosion control treatment (OCCT).	6 months
§141.81(e)(2)	State determines a corrosion control study is required.	12 months
§141.81(e)(2)(i)	State specifies OCCT for medium-size systems that are not required to conduct a study.	18 months
§141.81(e)(2)(ii)	State specifies OCCT for small systems that are not required to conduct a study.	24 months
§141.83(a)(1)	System completes initial source water monitoring and makes a treatment recommendation.	180 days
§141.84(b)(1)	System begins the first year of lead service line replacement. ²	1 day
§141.85(b)(2)	CWS conducts public education tasks (for CWSs that are not already conducting public education) – <i>also see paragraph below.</i>	60 days
§141.85(b)(4)	NTNCWS conducts public education tasks (for NTNCWSs that are not already conducting public education) – <i>also see paragraph below.</i>	60 days
§141.88(b)	System conducts initial source water monitoring.	6 months
¹ Expressed as number of months or days <i>after the end of the monitoring period during which</i> the lead and/or copper action level was exceeded.		
² Corresponds to the monitoring period in which the PWS exceeds the lead action level after installing corrosion control treatment and/or source water treatment, whichever is later. <i>[See section B.3 for clarifications to the timing of reporting actions associated with lead service line replacement.]</i>		

The Short-Term Revisions also allow the State discretion to extend the 60-day requirement for delivering public education materials for CWSs (§141.85(b)(3)(iv)) and NTNCWSs (§141.85(b)(5)), provided that before the end of the 60-day deadline, the State has approved the extension in writing. This extension only applies if the activities are ongoing prior to the end of the 60-day deadline.

B.2 Timing of Monitoring Requirements

EPA has also clarified the timing of monitoring activities for systems that qualify for reduced lead and copper tap, water quality parameter (WQP), and/or source monitoring or no longer meet the reduced monitoring criteria. These revisions help clarify that reduced monitoring must occur during June through September within the same calendar year or during an alternate four-month period designated by the State within the same calendar year. The previous rule language could be interpreted to allow a water system to collect compliance samples over multiple calendar years, as long as they were taken during the June–September time frame (or alternate monitoring period) and during the three-year compliance period.

The Short-Term Revisions also more clearly define the monitoring requirements for systems after the State sets OWQPs, and for those on triennial or nine-year monitoring. For example, some States interpreted triennial monitoring to mean that samples could be collected during the first, second, or third year of the three-year compliance period or over multiple years as long as the samples were collected in the summer months of June through September. In some cases, more than three years spanned between monitoring periods (e.g., samples were collected in 2002 of the compliance period 2002 through 2004, and in 2007 for the compliance period 2005 through 2007).

The revisions that clarify monitoring pertaining to lead and copper tap, WQPs, and source water are discussed in more detail below. Also refer to section B.3 regarding the clarification of timing requirements for system reporting to the States.

B.2.1 Lead and Copper Tap Monitoring Requirements

B.2.1.1 Requirements Applicable to CWSs and NTNCWSs

Section 141.86(d)(4)(i) allows medium and small systems to proceed to annual monitoring at the reduced number of sites if they meet the lead and copper action levels during each of two consecutive six-month monitoring periods. Section 141.86(d)(4)(ii), as modified by the Short-Term Revisions, allows any water system that *meets the lead action level and OWQPs* for two consecutive six-month monitoring periods to monitor annually at the reduced number of sites. The Short-Term Revisions clarify the start of annual monitoring in these two sections by specifying that it must begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.



EXAMPLE – Annual Monitoring

- ★ A PWS meets both action levels and its OWQP specifications during July 1 - December 31, 2008 and January 1 - June 30, 2009.
- ★ Annual monitoring would begin in 2010 because the PWS completed its 2nd six-month monitoring period below the lead and copper action levels in 2009.
- ★ The PWS would collect the annual samples during June - September 2010.
- ★ The PWS would report the results to the State by October 10, 2010. [Refer to section B.3 regarding reporting clarification.]

Section 141.86(d)(4)(iii) allows medium and small systems to proceed to triennial monitoring at the reduced number of sites if they meet the lead and copper action levels during each of three consecutive years. This section, as modified by the Short-Term Revisions, also allows any water system that *meets the lead action level and OWQPs* for three consecutive years and with approval from the State to conduct triennial monitoring at the reduced number of sites. In addition, the Short-Term Revisions specify that triennial samples must be collected no later than every third calendar year.



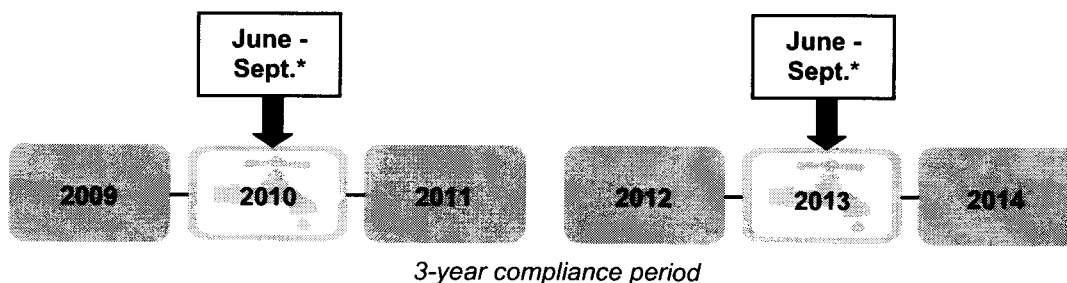
Two consecutive six-month monitoring periods in which the 90th percentile is at or below both action levels can count as the first year of the three years needed to qualify for triennial monitoring.



EXAMPLE – Triennial Monitoring

- ★ A PWS qualifies for triennial monitoring based on meeting both action levels and its OWQP specifications.
- ★ It is required to monitor during 2009 - 2011.
- ★ The PWS collects its sample during July 2010 and reports the results by October 10, 2010.
- ★ The PWS must conduct its next round of monitoring no later than June through September of 2013. [See Exhibit II-3 below.]

Exhibit II-3. Three-Year Compliance Period for Systems on Reduced Triennial Monitoring



*Samples must be collected during this monitoring period or alternate State-designated period.

Section 141.86(d)(4)(vi)(B) requires water system on reduced monitoring that exceed the lead action level or do not meet their OWQP specification for more than nine days in a six-month period (i.e., have an excursion) to resume standard lead and copper tap monitoring. The Short-Term Revisions clarify that this standard monitoring must begin no later than the six-month monitoring period beginning January 1 of the calendar year following the lead action level exceedance or WQP excursion.



EXAMPLE – Resuming Standard Monitoring

- ★ A PWS meets its OWQP specifications but exceeds the lead action level based on samples collected during July 2009.
- ★ This PWS must resume standard lead and copper tap monitoring beginning with the six-month monitoring period of January 1 - June 30, 2010.

Section 141.86(d)(4)(vi)(B)(1), as modified by the Short-Term Revisions, allows a system to re-qualify for reduced annual lead and copper tap monitoring if it has two consecutive six-months rounds below the *lead action level*, meets its OWQPs, and receives written approval from the State. The Short-Term Revisions also specify that annual monitoring will begin during the calendar year immediately following the end of the second consecutive six-month monitoring period in which the system meets the reduced monitoring criteria. The example above (*i.e., Example – Annual Monitoring*) explains when annual monitoring would begin.

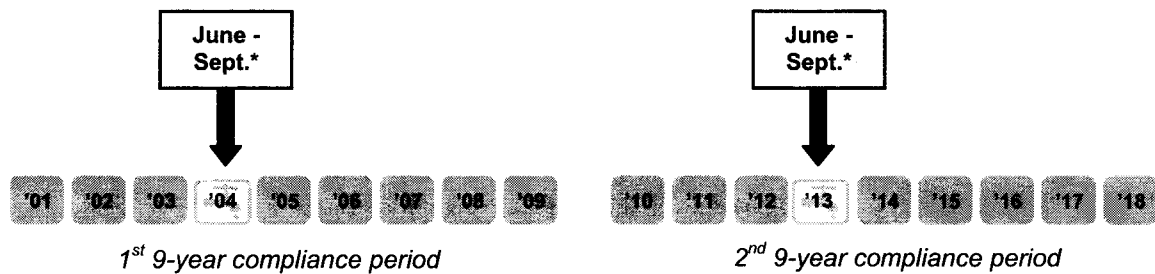
Section 141.86(g)(4)(i) requires small systems with full waivers to conduct reduced lead and copper tap monitoring once every nine years. The Short-Term Revisions clarify that these samples must be collected by the ninth calendar year. *[Note: This clarification was not added to §141.86(g)(4)(ii), which allows systems on partial waivers to conduct reduced lead and copper tap monitoring every nine years for the waived contaminant. However, EPA added new language to 141.86(g)(4)(i) to clarify that the reference to “every nine years” in that section means that these samples must be collected by the ninth calendar year.]*



EXAMPLE – Nine-Year Monitoring Waiver

- ★ A small PWS with a monitoring waiver is required to collect samples during 2001 - 2009.
- ★ The PWS conducts monitoring during August 2004.
- ★ Because these samples must be collected every 9 years, the next set of samples must be collected no later than June - September of 2013. *[See Exhibit II-4 below.]*

Exhibit II-4. Nine-Year Compliance Period for Systems on Monitoring Waivers



*Samples must be collected during this monitoring period or alternate State-designated period.

DON'T FORGET! Systems that are on reduced lead and copper tap monitoring must collect their samples during June - September in the same calendar year (i.e., monitoring cannot span multiple calendar years). For example, a system that is on triennial monitoring for 2007 through 2009 cannot take some samples in June 2007, June 2008, and June 2009 to obtain the total number of needed compliance samples.

B.2.1.2 Requirements Applicable to NTNCWSs Only

Section 141.86(d)(4)(iv)(A) allows the State to specify a maximum alternate lead and copper tap monitoring period of four consecutive months for NTNCWSs that do not operate during June through September. The Short-Term Revisions clarify when annual and triennial reduced monitoring will begin for these systems. Specifically, monitoring will begin during the State-specified alternate months:

- in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring, and
- during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring.



EXAMPLE – Triennial Monitoring for NTNCWS on an Alternate Schedule

- ★ A NTNCWS is closed during the summer months and is required to collect lead and copper samples during April or May.
- ★ It completes its third consecutive year of monitoring that is below the action levels during May 2009.
- ★ The system is required to conduct monitoring during the period of 2010 to 2012 (i.e., the 3-year period following the year in which it qualified for triennial monitoring based on annual monitoring results).
- ★ The NTNCWS must sample no later than April or May of 2012. No more than three years can pass between triennial monitoring periods.

B.2.2 WQP Monitoring

The Short-Term Revisions add language to §141.87(d) that specify the first six-month WQP monitoring period begins after the State specifies OWQPs. For large water systems (those serving more than 50,000 people) or small and medium systems that are on six-month lead and copper tap monitoring, this period begins on either January 1 or July 1, whichever comes first, after the State specifies OWQPs.

For small or medium-size systems that were on reduced lead and copper tap monitoring but exceed an action level, §141.87(d) of the Short-Term Revisions require the start of the six-month WQP period to coincide with the start of the 4-month monitoring period during which the exceedance occurred. This will allow small and medium systems on reduced monitoring that exceed the action level two months to take WQP samples after the end of the 4-month monitoring period in which they had to take lead and copper tap samples. For example, a system that takes lead and copper tap samples between June and September and exceeds the action level, would have until the end of November to take WQP samples. This provision is intended primarily for systems that are not aware of the exceedance until the end of the lead and copper monitoring period. However, those systems that are aware of the action level exceedance earlier in the four-month lead and copper monitoring period should conduct their WQP monitoring once they become aware of the exceedance to better capture the water quality conditions at the time of the exceedance.

F.Y.I.

As described above, the six-month OWQP monitoring period is June 1 through November 30 for small or medium water systems that were on reduced lead and copper tap monitoring when they exceeded the lead or copper action level. This compliance period should be used in place of the July 1 – December 31 compliance period, that is recommended for these systems on page 11 in the February 2001 guidance (EPA 815-R-99-019) "How to Determine Compliance with Optimal Water Quality Parameters as Revised by the Lead and Copper Rule Minor Revisions." Please note that the Short-Term Revisions do not revise the basic procedure for assessing compliance with OWQPs as described in this February 2001 guidance (i.e., compliance is still based on six-month compliance periods).

Section 141.87(e)(2)(i) allows a water system that is collecting a reduced number of WQP tap samples on a six-month schedule to reduce the frequency to annually if it meets its OWQP specifications during three consecutive years (i.e., six consecutive six-month periods). The Short-Term Revisions specify that this annual WQP tap monitoring will begin during the calendar year that immediately follows the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. (*Refer to "Example – Annual Sampling" in section B.2.1.1.*)

Section 141.87(e)(2)(i) also states that a water system that meets its OWQP specifications for three consecutive years of annual monitoring can further reduce the frequency of tap WQP monitoring to triennially. The Short-Term Revisions clarify that triennial monitoring must begin within three calendar years after the system qualifies for triennial monitoring.



EXAMPLE – Tap WQP Triennial Monitoring

- ★ A PWS meets its OWQPs for the 3rd consecutive year during 2008.
- ★ This system must collect its tap WQP samples by the end of 2011 (i.e., within 3 years after it qualifies for triennial monitoring).

A system can also qualify for triennial tap WQP monitoring under the accelerated reduced monitoring provisions of §141.87(e)(2)(ii) if it meets its OWQP specifications and its 90th percentile lead and copper levels are at or below 0.005 mg/L for lead and 0.65 mg/L for copper, respectively, during two consecutive monitoring periods (6-month or annual). The Short-Term Revisions state that triennial monitoring must be completed no later than every third calendar year (e.g., if tap WQP samples were collected in 2007, the next set would be due by the end of 2010).

B.2.3 Source Water Monitoring

The Short-Term Revisions clarify the timing of reduced source water monitoring after the State sets maximum permissible levels (MPLs) in source water or determines that source water treatment is not needed. Specifically, the Short-Term Revisions:

- Retain the requirement in §141.88(d)(1)(i) for systems using only ground water sources to monitor once during the three-year compliance period as defined in §141.2 (e.g., 1/1/2008 - 12/31/2010; 1/1/2011 - 12/31/2013) but clarify that this monitoring must be conducted every third calendar year.



EXAMPLE – Triennial Source Water Monitoring

- ★ A ground water system on triennial monitoring collects a source water sample from each entry point on November 11, 2008.
- ★ It must complete its next round of monitoring by December 31, 2011.

- Retain the requirement in §141.88(d)(1)(ii) that systems using surface water or ground water under the direct influence of surface water (GWUDI) sources must conduct annual source water monitoring but clarify that the first annual monitoring period begins during the year in which the State set MPLs or determined that source water treatment is not required. Therefore, both the determination and sample collection must occur before the end of December. This clarification encourages States to make timely decisions to allow systems to meet the December 31 deadline.



EXAMPLE – Annual Source Water Monitoring

- ★ A surface water system submits initial source water monitoring results to the State on May 15, 2008.
- ★ On October 31, 2008, the State determines that no treatment is needed.
- ★ The system must collect a sample from each entry point to the distribution system by December 31, 2008.

The Short-Term Revisions also clarify that ground water systems [§141.88(e)(1)] or surface water or GWUDI systems [§141.88(e)(2)] that qualify for reduced nine-year source water monitoring may monitor once during each nine-year compliance cycle as defined in §141.2 (e.g., 1/1/02 - 12/31/2010) if samples are collected no later than every ninth calendar year. The Short-Term Revisions do not change the reduced monitoring criteria. To qualify for nine-year monitoring, ground water systems must be below their MPLs or have lead source water levels of ≤ 0.005 mg/L and copper levels of ≤ 0.65 mg/L for three compliance periods. Surface water systems must meet these criteria for three consecutive years.



EXAMPLE – Nine-Year Source Water Monitoring

- ★ A ground water system is on 9-year source water monitoring.
- ★ It collects a source water sample from each entry point on November 18, 2009.
- ★ The next sample must be collected by December 31, 2018 (i.e., no later than every 9th year).

B.3 Clarification to Timing of Reporting Requirements

The Short-Term Revisions clarify the timing of reporting requirements by defining the end of the monitoring period as follows:

- §141.90(a)(1) requires water systems to submit information pertaining to lead and copper tap and WQP monitoring within the first 10 days following the end of the applicable monitoring period. The Short-Term Revisions clarify that for systems on reduced lead and copper tap monitoring, the end of the monitoring period is the last date samples can be collected (e.g., September 30 for systems on reduced monitoring, unless the State has set an alternate period). For example, a system that is required to collect samples during 2008 - 2010 and collects them during 2009, would need to report the results by October 10, 2009. The system would not have until the end of the three-year compliance period (2010) to report these results.



Systems must collect their samples early enough in the June - September monitoring period to enable them to report their results to the State by October 10th.

- §141.90(e)(1) requires water systems to submit their material evaluation that identifies the initial number of lead service lines in its distribution system. The Short-Term Revisions clarify that this reporting requirement is due no later than 12 months after the end of the monitoring period in which the system is triggered into lead service line replacement (i.e., an exceedance that occurs after the system installs corrosion control and/or source water treatments, whichever is later). The Short-Term Revisions also define the initial number of lead service lines as the number present in the distribution system during the monitoring period that triggered the system into lead service line replacement.
- §141.90(e)(2) specifies that the system must submit documentation that demonstrates compliance with its replacement requirements within 12 months after it exceeds the lead action level. The Short-Term Revisions clarify that this information is due no later than 12 months after the end of a monitoring period in which it exceeds the lead action level after initiating lead service line replacement.

C. Reduced Monitoring Criteria

EPA is no longer allowing water systems that exceed the lead action level to initiate or remain on a reduced lead and copper monitoring schedule based solely on the results of their WQPs. The rule previously allowed systems eligibility for reduced monitoring even if they exceeded the lead or copper action level if they could demonstrate their corrosion control treatment was effective by meeting their OWQPs. However, as shown by the events in the District of Columbia, compliance with WQPs alone may not always indicate that corrosion control is effective, especially after a treatment or source change. Continued exceedance of the lead action level may indicate that a particular method of corrosion control treatment is not effective for a particular system and knowledge of this continued exceedance may result in the system implementing an alternative and more effective corrosion control treatment strategy. In addition, more frequent monitoring will allow States to gain a more accurate picture of lead levels in drinking water in their States. Many systems within States share water sources, have similar treatment technologies, and have similar materials in their distribution systems. States and other Primacy Agencies with knowledge of effective corrosion control for one system may be able to aid other systems within their jurisdiction in lowering lead levels in water.

The Short-Term Revisions modify the reduced monitoring provisions in §141.86(d)(4)(ii), (iii), and (vi)(B) as follows:

- Systems can monitor annually at the reduced number of sites if they meet the *lead action level* and their OWQPs for two consecutive six-month monitoring periods.
- Systems can monitor triennially at the reduced number of samples if they meet the *lead action level* and their OWQPs for three consecutive years.
- Systems on reduced monitoring that exceed the *lead action level* or have an OWQP excursion must resume standard lead and copper tap and WQP monitoring.



A PWS that is on reduced monitoring and exceeds the copper action level is *not* required to resume standard monitoring if it meets the lead action level and its OWQP specifications.

D. Consumer Notice of Lead Tap Water Monitoring Results

EPA added a new notification requirement to §141.85(d) that requires all PWSs to provide consumers who occupy homes or buildings that are part of the utility's monitoring program with results when their drinking water is tested for lead (including those who do not receive water bills). These results will help occupants determine what actions to take to reduce their exposure to lead in drinking water. Although some water systems may have provided customers with testing results, they were not previously required by EPA to notify occupants of the lead levels found in their drinking water.

Sections 141.85(d)(2)-(4) specify the timing, content, and delivery methods for this notification as follows:

- §141.85(d)(2) requires the notification to be provided within 30 days of when the system learns of the results.

F.Y.I.

The notification applies to each lead result. Thus, a water system that collects 10 samples, must provide 10 separate notices within 30 days of receiving each result.

- §141.85(d)(3) specifies that the notice must include: the results of lead tap water monitoring for the tap that was tested an explanation of the health effects of lead, steps consumers can take to reduce exposure to lead in drinking water, contact information for the water utility, the MCLG and the action level for lead, and the definitions for these two terms from §141.153(c) of the CCR Rule.

F.Y.I.

EPA recommends that the notice include the 90th percentile level if known prior to the delivery deadline.

- §141.85(d)(4) requires the notice to be sent by mail or other State-approved method (e.g., NTNCWSs can post the results on a bulletin board in the tested facility if approved by the State).

Where testing occurs in buildings with many units (e.g., an apartment building), the notification must be provided only to units that were tested (i.e., notification does not need to extend to the entire building).



Templates for lead consumer notice are available in the CWS and NTNCWS public education guidance documents. A copy of these guidances can be downloaded at <http://www.epa.gov/safewater/lcrmr/compliancehelp.html>

EPA also added a corresponding reporting requirement in §141.90(f)(3). Within 3 months following the end of the monitoring period, systems must submit a sample copy of the notification and a certification that the system met the delivery requirements to their State.

F.Y.I.

A sample certification form is provided in Appendix D.

→ DON'T FORGET!

Although the lead consumer notification requirements have been added to §141.85, they are distinct from other public education requirements. They apply to all CWSs and NTNCWSs, including those with 90th percentiles at or below the lead action level of 0.015 mg/L. As discussed in detail in Section III, a violation of the lead consumer notice requirements is a reporting violation and does not trigger public notification. On the other hand, a public education violation is a treatment technique violation and triggers Tier 2 public notification.

E. Advanced Notification/Approval of Long-Term Treatment Changes

The LCRM required systems that are on reduced lead and copper tap monitoring to notify the State within 60 days of making a change in treatment or adding a new source. The Short-Term Revisions require water systems to receive approval from the State before adding a new source or making any long-term treatment change. When a water system makes long-term changes to its treatment process or adds a new source of water, it can unintentionally affect the system's optimal corrosion control. EPA believes that State review and approval of changes in long-term treatment or addition of a new source will provide an opportunity to minimize any potential impacts on optimal corrosion control.

The Short-Term Revisions clarify EPA's intent by stating that the notification of treatment changes apply to those that would have *long-term* impacts on water quality and in advance of the change. EPA believes that this clarification will prevent water systems from notifying the State and requesting approval for changes that are operational in nature or made on a daily basis.



A change in treatment or source may necessitate a change in OWQP specifications and corrosion control treatment plans.

EPA amended the provisions pertaining to systems deemed to have optimized corrosion control treatment, systems on reduced lead and copper tap monitoring, and systems with lead and copper tap monitoring waivers in §§141.81(b)(3)(iii), 141.86(d)(4)(vii), and 141.86(g)(4)(iii). The Short-Term Revisions also make a corresponding change to the reporting requirements in §141.90(a)(3) to require water systems to obtain prior approval from the State to add a new source of water or make any long-term change in water treatment process prior to implementation.

Section 141.90 also provides examples of long-term treatment changes. These examples include the addition of a new treatment process or modification of an existing treatment process such as:



Long-term treatment changes would not include chemical dose fluctuations associated with daily raw water quality changes.

- switching secondary disinfectants (e.g., chlorine to chloramines),
- switching coagulants (e.g., alum to ferric chloride),
- switching corrosion inhibitor products (e.g., orthophosphate to blended phosphate), and
- changing the dosage of existing chemicals if the system is planning long-term changes to its finished water pH or corrosion inhibitor residual concentration.

Additional examples of long-term treatment changes include the installation of membrane filters, ozonation, and enhanced coagulation/enhanced softening to reduce disinfectant by-product precursors. Other treatments to consider are those processes or combinations of processes that can greatly affect the pH, oxidation-reduction potential, alkalinity, or the major composition of the ionic background of the water. These include:

- Initiation of an aeration process (e.g., for radon removal).
- Initiation of disinfection.
- Installation of oxidation/removal process for iron, manganese, hydrogen sulfide, ammonia, and other similar contaminants, in a system previously having minimal or no disinfectant residual. Examples include aeration and filtration, permanganate addition, breakpoint chlorination, greensand, or biologically-active filtration followed by disinfection.
- Change from lime softening to ion exchange softening (alkalinity may increase greatly, causing corrosivity), particularly in ground water systems (more likely to have high alkalinities and thence, copper problems).
- Change from orthophosphate inhibition to pH/alkalinity adjustment as a corrosion control treatment strategy, or vice versa.
- Installation of sorptive or ion-exchange media for arsenic, radionuclide, or other contaminant removal that requires or is operated in such a way as to cause a pH decrease.

Examples of source additions include, but are not limited to:

- (1) Shifting from ground water to surface water supply
- (2) Adding any new source to a system that has different general background water quality.
Examples include:
 - Switching source types.
 - Adding a treated surface water to a ground water only system.
 - Adding a new well from an aquifer with different water quality characteristic pertinent to corrosivity (e.g., alkalinity, pH, chloride, sulfate) than the current supply.



Regularly changing among sources on a seasonal or interannual basis that have been covered by previous LCR OCCT studies and sampling, and are covered within the OCCT designation framework, do not require notification.

In addition, to assist the State in making its determinations, EPA published “*Simultaneous Compliance Guidance Manual for the Long Term 2 and Stage 2 DBP Rules*” (EPA 815-R-07-017) in March 2007. This document can aid the State in identifying those situations where optimal corrosion control can be affected by changes in treatment or source water.



A copy of this guidance can be downloaded at
<http://www.epa.gov/safewater/lcrmr/compliancehelp.html>

F. Public Education Requirements

EPA revised the LCR public education requirements in §141.85. Water systems are still required to deliver public education materials after a lead action level exceedance. However, EPA made significant modifications to the content of the written public education materials (i.e., message content) and added a new set of delivery requirements. In addition, water systems must submit public education language for State review and approval at the option of the State.

This section explains how the Short-Term Revisions have impacted the message content, delivery requirements, and timing requirements. EPA also has developed two public education fact sheets summarizing the public education requirements and two public education guidance documents, *Implementing the Lead Public Education Provisions of the Lead and Copper Rule: A Guide for Community Water Systems*, and *Implementing the Lead Public Education Provisions of the Lead and Copper Rule: A Guide for Non-Transient Non-Community Water Systems*. In addition to providing a detailed explanation of the revisions to the public education requirements, the Public Education guidances explain how to design and implement an effective public education program, and include public education templates that can be adapted for use.



Detailed public education guidance documents for CWSs and NTNCWSs are available at <http://www.epa.gov/safewater/lcrml/compliancehelp.html>.

F.1 Message Content

During EPA's national review of the LCR, many stakeholders stated that the public education requirements needed improvement. At the September 2004 EPA Public Education Expert Workshop, which was held in Philadelphia, a number of concerns were raised about the effectiveness of the existing public education language and requirements. Workshop participants stated that the mandatory language in the rule was too long, cumbersome, and complex. With some modifications, EPA has included the public education language developed by the National Drinking Water Advisory Council (NDWAC) in the Short-Term Revisions as a replacement to the prior public education requirements of the LCR. The revised public education information is more clear and concise and also encourages the public to take an appropriate course of action to reduce their exposure to lead. The health effects language section was revised by EPA to improve consumer awareness and understanding of potential effects of exposure to lead.

F.1.1 Requirements Applicable to All Systems Exceeding the Lead Action Level

The Short-Term Revisions require CWSs and NTNCWSs to deliver the same mandatory language that consists of an opening statement, health effects language, and sources of further information (See §§141.85(a)(1)(i), (ii), and (vi) in Appendix B for exact language.) The health effects language has been revised to provide greater specificity on the health problems that can result from exposure to lead (e.g., the original health effects language indicated that lead can cause damage to the brain, while the new language specifies that this damage is associated with lower IQ in children). The revised rule also requires these water systems to include information regarding sources of lead, steps consumers

can take to reduce their lead exposure, any known reasons for elevated lead levels, and steps that the water system is taking to reduce lead levels. However, unlike the prior requirements, water systems have the flexibility to tailor these topics to fit their community and/or situation. For example, previous public education language required water systems to instruct consumers to flush their faucet for 15-30 seconds or one minute (if the home has a lead service line) before drinking the water. The Short-Term Revisions allow systems to tailor flushing directions to their specific situations.

Section 141.85(b)(1) of the Short-Term Revisions specify that the State is to make the determination as to whether the PWS serves a large proportion of non-English speaking consumers. In these instances, the education materials must include either of the following in the appropriate languages: 1) the importance of the notice; or 2) water system contact information that specifies where to obtain a translated copy of the materials or to request assistance [See text box below]. Previously, in those communities where a significant proportion of the population spoke a language other than English, water systems had to provide public education materials in the appropriate languages.

F.Y.I.

EPA recommends that the public education materials include language regarding the importance of both the notice and appropriate contact information.

→ DON'T FORGET!

Water systems must submit public education materials to the State prior to their delivery to consumers. States also may require their approval of the content of these materials prior to their delivery.

F.1.2 Requirements Applicable to CWSs Exceeding the Lead Action Level

CWS's public education materials must also indicate how consumers can get their water tested, and provide a discussion of lead in plumbing materials and the difference between low-lead and lead-free materials. However, §141.85(a)(7) allows CWSs that meet both of the following requirements (i.e., hereafter referred to as "special CWSs") to apply to the State in writing to forego these requirements:

- The population served cannot make improvements to plumbing or install point-of-use devices (e.g., CWS is a prison, hospital), and
- The CWS does not charge separately for water consumption.

→ DON'T FORGET!

§141.85(a)(7) allow States to waive the requirement for these CWSs to obtain prior approval.

Exhibit II-5 provides a summary of the revisions to the public education language requirements, their corresponding federal rule citation, and to which systems the requirements apply.

Exhibit II-5. Revisions to Public Education Message Content Requirements

Revision	Corresponding Rule Section	Applicability
Must submit public education materials to the State prior to delivery to consumers. States may require approval of the content of these materials before their delivery.	§141.85(a)(1)	CWSs and NTNCWSs
If the State determines that the PWS serves a large proportion of non-English speaking consumers, materials must include in appropriate languages: 1) the importance of the notice; or 2) contact information to obtain a translated copy of materials or request assistance.	§141.85(b)	
Public education materials must include the following mandatory language: <ul style="list-style-type: none"> revised mandatory opening statement, health effects, and sources of further information. 	<ul style="list-style-type: none"> §141.85(a)(1)(i) §141.85(a)(1)(ii) §141.85(a)(1)(vi) 	
Any non-mandatory language must be consistent with the requirements in paragraphs (a)(1)(i) - (vi) and in plain language that can be understood by the general public.	§141.85(a)(1)	
Must include language to discuss: <ul style="list-style-type: none"> sources of lead, known reasons for elevated lead levels, steps PWS is taking to reduce lead in drinking water, and steps consumers can take to reduce lead in drinking water. <i>Previously, prewritten text was already included. Systems can now develop their own text within the guidelines that is applicable to local situation.</i>	<ul style="list-style-type: none"> §141.85(a)(1)(iii) §141.85(a)(1)(iv) §141.85(a)(1)(iv) §141.85(a)(1)(v) 	
Must include language explaining: <ul style="list-style-type: none"> how consumers can get their water tested, and lead in drinking water and the difference between low-lead and lead-free materials. 	<ul style="list-style-type: none"> §141.85(a)(2)(i) §141.85(a)(2)(ii) 	CWSs only*
* §141.85(a)(7) allows "special CWSs" to apply in writing to forego these public education requirements. States may waive the need for prior approval.		

F.2 Delivery

EPA revised the delivery requirement associated with public education materials to help ensure that consumers, specifically at-risk populations, receive the information they need in a timely manner to limit their exposure to lead in drinking water. The discussion below, distinguishes between those requirements that pertain to all systems delivering public education, or to a subset of systems (e.g., CWSs serving 3,300 or fewer people). Exhibits II-5a and II-5b include a description of the revisions to the delivery requirements for CWSs and NTNCWSs, respectively, the corresponding rule citation for these requirements, the timeframe for public education delivery, and the systems to which the requirements apply.

F.2.1 Requirements Applicable to CWSs

EPA has expanded the delivery requirements in recognition of the importance of distributing information to the at-risk populations (e.g., pregnant women, infants, and young children) on the

hazards of lead and how individuals can protect themselves from exposure to lead. In addition, since EPA believes that communicating with consumers is important in promoting public awareness, the rule requires systems to continually communicate with consumers for as long as they exceed the lead action level. Each of these delivery requirements are explained in more detail below.

Organizations Serving At-Risk

Populations: CWSs must make a “good faith effort” to locate and deliver materials to additional organizations (i.e., licensed childcare facilities, obstetricians-gynecologists and midwives, and preschools) and to include an informational notice with the public education materials explaining the importance of sharing the information with their customers or users.

F.Y.I.

A “good-faith effort” to contact at-risk customers can include requesting a contact list of childcare facilities, obstetricians-gynecologists, midwives, and preschools from the local health department, even if the agencies are not within the CWS’s service area.

The Short-Term Revisions retain the requirement for CWSs to deliver public education materials to the following organizations in their area but adds a requirement to include an informational notice (as discussed in the preceding paragraph): 1) public schools or school boards; 2) Women, Infants, and Children (WIC) and Head Start programs, 3) public and private hospitals and medical clinics; 4) pediatricians; 5) family planning clinics; and 6) local welfare agencies. The Short-Term Revisions also expand this list to include delivery of public education materials and the informational notice to private schools or their school boards.

Local Health Agencies: EPA recognizes that local health agencies may be valuable resources for identifying additional community-based organizations that serve target populations. Previously, CWSs were required to distribute public education materials to health departments in their service area. The Short-Term Revisions require CWSs to contact their local health agencies via phone or in-person, rather than relying solely on mailing, to request their assistance in distributing information on lead in drinking water and how people can reduce their exposure to lead. Systems must contact their local public health agencies even if they are located outside the service area of the water systems. Furthermore, the local public health agencies may provide a water system with a specific list of additional community-based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems must deliver materials to all organizations on the provided lists.

F.Y.I.

States may want to initiate their own contacts with local health agencies to educate them on the new requirements and alert them to potential contact by the water systems.

Required Notification on Water Bills: The Short-Term Revisions retain the requirements for CWSs to provide a public education statement to all bill-paying customers (see Exhibit II-5 for content) but modify the mandatory alert language to be included on the water bill, as shown in Exhibit II-6.

Exhibit II-6. Mandatory Health Alert Language on Water Bill

[INSERT NAME OF WATER SYSTEM] found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call [INSERT NAME OF WATER SYSTEM] [or visit (INSERT YOUR WEB SITE HERE)].

The message or delivery mechanism can be modified in consultation with the State; specifically, the State may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills. This information must be provided at least quarterly for as long as the system exceeds the lead action level.

Press Releases: The Short-Term Revisions remove the requirement for medium and large CWSs to provide two public service announcements (PSAs) per year. Instead, CWSs must distribute two press releases as opposed to the one required by the previous LCR.

Web Site Posting: Systems serving a population more than 100,000 persons must also post and keep information on a publicly accessible Web site until the system tests at or below the action level.

Additional Outreach Categories: In order to make the public education as effective as possible, EPA is giving CWSs some flexibility in how they deliver their public education materials. Section 141.85(b)(2)(vi) requires CWSs to conduct additional outreach activities that they select from the following list in consultation with the State:

1. PSAs.
2. Paid advertisements.
3. Public area informational displays.
4. E-mails to customers.
5. Public meetings.
6. Household deliveries.
7. Targeted individual customer contact.
8. Direct material distribution to all multi-family homes and institutions.
9. Other methods approved by the State.

Systems serving more than 3,300 people are required to select three additional public education activities from one, two, or three categories on this list. Refer to the next section for delivery requirements that are unique to small CWSs.

F.2.2 Requirements for CWSs Serving 3,300 or Fewer People

Realizing that small systems (those serving 3,300 or fewer people) may have difficulty in completing the public education delivery requirements, the Short-Term Revisions allows these systems to limit certain aspects of their public education program. These systems may limit delivery of public education materials and the informational notice to those places frequented by the most vulnerable populations without written approval from the State. EPA recognizes that small systems are typically aware of the constituents in their community and often have the capability to target specific populations through personal relationships. By removing the requirement to obtain State approval, this provision allows these systems to send public education materials to their vulnerable populations as soon as possible and reduces burden on both the system and the State.

In addition, EPA offers States the option to waive the press release requirements for small systems if they distribute notices to every household they serve. Further, these systems are required to implement a minimum of one activity from any of the nine additional outreach categories listed above and in §141.85(b)(2)(vi) as opposed to three activities for larger systems.

Exhibit II-7a. Revisions to Public Education Delivery Requirements for CWSs		
Revisions and Corresponding Paragraph in §141.85	Timing¹⁻⁴	Applicability⁵
<u>Bill Paying Customers:</u> <ul style="list-style-type: none"> • Deliver printed public education message on or in water bill [(b)(2)(i)]. • Put new mandatory statement on or in water bills. <i>With State approval, PWS can change statement or delivery message.</i> [(b)(2)(iii)] 	<ul style="list-style-type: none"> • Within 60 days & repeating once every 12 months. • Within each billing cycle but no less often than quarterly. 	All CWSs.
<u>Local Health Agencies (LHAs) [(b)(2)(ii)(A)]:</u> <ul style="list-style-type: none"> • Deliver printed public education material. • Provide “informational notice” that encourages LHAs to distribute materials to their at-risk customers. • Contact LHAs by phone or in person. • Request from LHAs, a list of additional community-based organizations serving target populations (may include those outside CWS’s service area). <i>Note: LHA may be outside CWS’s service area.</i>	Within 60 days and repeating once every 12 months.	All CWSs; however, those serving ≤ 3,300 people can limit distribution to facilities and organizations most likely to be regularly visited by pregnant women and children.
<u>Organizations within Service Area [(b)(2)(ii)(B)]:</u> Deliver printed public education materials and “informational notice” (see above description) to: <ul style="list-style-type: none"> • Public and private schools or school boards. • WIC and Head Start Programs. • Public and private hospitals and medical clinics. • Pediatricians • Family planning clinics. • Local welfare agencies. 		
<u>Other Organizations within Service Area [(b)(2)(ii)(C)]:</u> Make a “good faith” effort to identify* and deliver printed public education materials and “informational notice” to: <ul style="list-style-type: none"> • Licensed childcare centers. • Public and private preschools. • Obstetricians-Gynecologists and Midwives. <i>*Can include requesting a list of these organizations from LHAs but must deliver to ones outside service area if included on this list.</i>		

Exhibit II-7a. Revisions to Public Education Delivery Requirements for CWSs

Revisions and Corresponding Paragraph in §141.85	Timing ¹⁻⁴	Applicability ⁵
Submit press release to newspaper, television, and radio stations [(b)(2)(v)].	Within 60 days and repeating twice every 12 months on a schedule approved by the State.	<ul style="list-style-type: none"> • CWSs serving > 3,300 people. • With State permission, CWSs serving ≤ 3,300 people can distribute notices to every household instead.
Implement activities from at least one category from list below (b)(2)(vi): <ul style="list-style-type: none"> • Public service announcements. • Paid advertisements. • Public area informational displays. • E-mails to customers. • Public meetings. • Household deliveries. • Targeted individual customer contact. • Direct material distribution to all multi-family homes and institutions. • Other methods approved by the State. <i>CWS must consult with State regarding public education content and activity selection.</i>	Within 60 days and repeating once every 12 months.	<ul style="list-style-type: none"> • CWSs serving > 3,300 people must implement 3 activities. • CWSs serving ≤ 3,300 people must implement 1 activity.
Post materials on a publicly accessible Web site [(b)(2)(iv)]	Within 60 days and continuous posting.	CWSs serving > 100,000 people.

¹ §141.85(b)(2) clarifies that for CWSs that are not already conducting public education, delivery must be conducted within 60 days after the end of the monitoring period in which the exceedance occurred.

² For systems that exceeded the lead action level while on reduced lead and copper tap monitoring, §§141.85(b)(2)(vii) and (b)(4)(iii) defines the end of the monitoring period for CWSs and NTNCWSs, respectively, as September 30 of the calendar year in which the monitoring occurred or for systems on State-established alternate periods, the last day of that period.

³ §141.85(b)(3)(iv) allows the State to extend the 60-day requirement on a case-by-case basis.

⁴ The Short-Term Revisions still require continued public education delivery until the system no longer has an action level exceedance.

⁵ “Special CWSs” such as hospitals and prisons may submit a written request to the State to follow NTNCWS delivery requirements (see Exhibit II.7b). States may waive the need for prior approval.

F.2.3 Requirements Applicable to NTNCWSs and “Special” CWSs

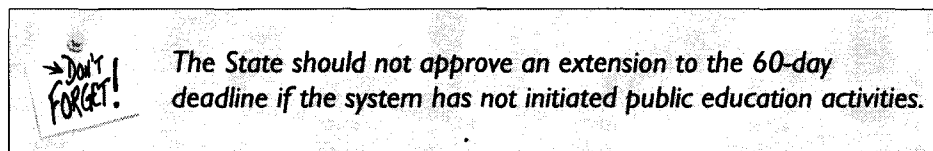
The Short-Term Revisions do not modify the delivery requirements for NTNCWSs (other than to change their federal citation). These systems must still display information posters on lead in drinking water in each of the buildings that they serve and distribute materials (State may allow distribution by e-mail) to each person they serve. The Short-Term Revisions also retain the provision for “special CWSs”, such as prisons and hospitals, to apply to the State in writing (unless prior approval is waived) to use the same delivery requirements as NTNCWSs.

Exhibit II-7b. Revisions to Public Education Delivery Requirements for NTNCWSs

Revisions and Corresponding Paragraph in §141.85	Timing ¹⁻⁴	Applicability ⁵
Post informational posters on lead in drinking water in a public place or common area in each of the buildings [(a)(4)(i)].	Within 60 days and repeat annually during each calendar year lead action level exceeded.	NTNCWSs and “Special CWSs.”
Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the NTNCWS. <i>States may allow use of electronic transmission in lieu of or in combination with printed materials.</i> [(a)(4)(ii)]		NTNCWSs and “Special CWSs.”
¹ §141.85(a)(4) clarifies that for NTNCWSs that are not already conducting public education, delivery must be conducted within 60 days after the end of the monitoring period in which the exceedance occurred.		
² §141.85(a)(2)(viii) defines the end of the monitoring period as September 30 of the calendar year in which the monitoring occurred or for systems on State-established alternate periods, the last day of that period.		
³ §141.85(a)(5) allows the State to extend the 60-day requirement on a case-by-case basis.		
⁴ “Special CWSs” such as hospitals and prisons may submit a written request to the State to follow NTNCWS delivery requirements listed above. States may waive the need for prior approval.		

F.3 Timing

The Short-Term Revisions retain the requirement for water systems that exceed the lead action level and are not already conducting public education to complete required activities within 60 days after the end of the monitoring period in which the exceedance occurred. However, §§141.85(b)(3)(iv) and (b)(5) of the Short-Term Revisions allow States to extend the timeframe for CWSs and NTNCWSs, respectively, to complete the public education activities on a case-by-case basis if the extension is approved in writing by the State in advance of the 60-day deadline. This ensures that the system and the State begin public education actions to reduce exposure as soon as possible, but allows these actions to continue past the 60-day timeframe on a case-by-case basis as needed for effective implementation.



As illustrated in Exhibits II-7a and II-7b, most public education requirements must be repeated annually until the system no longer exceeds the lead action level. Some activities must be conducted more frequently as follows:

- CWS provide the mandatory informational statement (see Exhibit II-6) on or in water bills with each billing cycle but no less frequently than quarterly;
- CWSs must deliver press releases twice every 12 months on a schedule agreed upon with the State; and
- CWSs serving more than 100,000 people must retain material on a publicly accessible Web site.

G. Consumer Confidence Report

The Short-Term Revisions modify the requirements of the CCR Rule in §141.154. Previously, all water systems that detected lead above the action level in more than 5 percent of the homes sampled had to include a short informational notice about lead in their CCR. EPA is requiring all CWSs to provide information in their CCRs on lead in drinking water irrespective of whether the system detected lead in any of its samples.

EPA believes that exposure to lead can be a localized phenomenon and has revised the rule based on concerns that exposure to lead may be taking place, even though the action level is not exceeded; consumers, therefore, currently may not receive sufficient information on how to reduce their exposure to lead.

This short educational statement will help to ensure that all vulnerable populations or their caregivers receive information (at least once a year) on how to reduce their risk to lead in drinking water (see Exhibit II-8 for this statement). EPA incorporated NDWAC's recommended changes to the informational notice, which clarify the risk of lead in drinking water, include basic steps on how to reduce exposure to lead in drinking water, and provide sources of additional information. Additionally, requiring all systems to have one statement will simplify compliance with this provision of the rule for the systems and the States. However, the CCR revisions allow a system to write its own educational statement, but only in consultation with the State. For example, the system may wish to revise the flushing time of "30 seconds to 2 minutes" if it conflicts with the flushing information in its public education materials or to add the phone number for the Safe Drinking Water Hotline (1-800-426-4791).

Exhibit II-8. Short Informational Statement

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. [NAME OF UTILITY] is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at <http://www.epa.gov/safewater/lead>.



CWSs in States where EPA is the Primacy Agency or have adopted the Short-Term Revisions by December 2008 must begin including this lead informational statement in CCRs that are due to consumer by July 1, 2009 (i.e., the 2008 CCR). Otherwise, CWSs must begin to include this information in the 2009 CCR.

H. Reevaluation of Lead Service Lines

Lead service line replacement is intended as an additional step to reduce lead exposure when corrosion control treatment is unsuccessful. The provision in §141.84(c), allows systems to leave in place an individual lead service line if the lead concentration in all service line samples from that line is less than or equal to 0.015 mg/L. It is intended to maximize the exposure reduction achieved per service line replaced by avoiding the disruption and cost of replacing lines that are not leaching elevated levels of lead. However, samples taken from a lead service line cannot predict future conditions of the system or of the service line. Systems can discontinue a lead service line replacement program by meeting the lead action level for two consecutive 6-month monitoring periods.

The Short-Term Revisions require water systems to reconsider any lines previously determined to not require replacement (i.e., “replaced through testing”) when they exceed the action level again in the future and resume the lead service line replacement program. Specifically, the newly added subsection (2) in §141.84(b) requires water systems to update their inventory of lead service lines to include those that were classified as “replaced through testing.” The system will then divide the updated number of remaining lead service lines by the number of remaining years in the program to determine the number of lines that must be replaced per year (see example to the right). In the event that a system completed its 15-year (or accelerated) replacement program but has lead service lines that were considered replaced through testing, the State will determine a schedule for replacing or retesting lines these lines should the system have a subsequent lead exceedance.



EXAMPLE - Reconsidering Lines "Replaced through Testing"

- A PWS exceeded the lead action level in July – December 2005 after installing corrosion control treatment, and thus is triggered into lead service line replacement (LSLR).
- It began with 60 lead service lines in its inventory.
- During 2006 and 2007, 3 lines were physically replaced and 4 lines were replaced through testing (for a total of 7 lines over these two years).
- During the monitoring period of Jan. – June and June – Dec. 2007, the system was below the lead action level and therefore, discontinued LSLR.
- The PWS began annual monitoring in 2008.
- In 2009, it exceeded the lead action level.
- The PWS is triggered back into LSLR on Oct. 1, 2009 (i.e., the day after the end of the monitoring period in which the exceedance occurred).
- The PWS has 57 lead service lines in its inventory to be considered (because it must include the 4 previously considered “replaced through testing”).
- It must replace 57 lines over the remaining 13 years or 4 to 5 lines per year.

Note that any retested or newly tested lines that are at or below 0.015 mg/L are considered replaced.

F.Y.I.

A PWS must reconsider and retest the lines “replaced through testing” each time it is required to resume its lead service line program.

I. Other Issues Related to the LCR

In the July 18, 2006 proposed Short-Term Revisions (137 FR 40828), EPA requested comment on the following four areas for which the Agency has decided not to make any further rule changes: site selection in areas with water softeners and point-of-use (POU) treatment units; defining plumbing component replacement, and POU and point-of-entry (POE) treatments as optimal corrosion control treatment; and synchronization of WQP monitoring with lead and copper tap monitoring. Each of these is discussed in more detail below.

I.1 Site Selection in Areas with POE and POU Treatment Units

Many homes have whole house (i.e., POE) water softeners or treatment units at the kitchen tap (i.e., POU), even though the system is not installing and maintaining these units. Section 141.86(a)(1) states that sampling sites may not include faucets that have POU or POE treatment devices designated to remove inorganic contaminants. However, some areas of the country may find that the prevalence of POE water softeners restricts the ability of the water system to find homes where these units are not installed. This scenario is discussed in EPA's *Lead and Copper Rule Guidance Manual Volume 1: Monitoring* that was published in September 1991. Figure 3-2 in that manual described preferred sampling pool categories for targeted sampling sites. Category F.2 was listed as an exception case for water systems that only have sites where water softeners have been installed. This situation has been observed in the mid-western United States. The guidance states that these systems should select the highest risk sites (newest lead solder or lead service lines) and monitor at those locations even though the water softener is present.

EPA requested public comment on whether the LCR should be amended to allow sampling at locations with POU/POE devices used to remove inorganic contaminants in exceptional cases (such as systems with high prevalence of water softeners), and if so, how high risk sites in these locations should be identified. EPA specifically requested comment on whether the Agency should codify the guidance provision discussed above.

EPA decided not to revise the LCR with respect to monitoring at sites with POE and POU devices. The Agency has decided that the current §141.86(a)(5) provides flexibility as follows, "A community water system with insufficient tier 1, tier 2, and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. For the purpose of this paragraph, a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system." A comparable provision for NTNCWS is provided in §141.86(a)(7). EPA believes that the current rule provisions and guidance on this issue are sufficient at this time.

I.2 Plumbing Component Replacement as Optimal Corrosion Control Treatment

EPA requested comment as to whether plumbing replacement should be specifically defined as a corrosion control technique, or explicitly identified as an alternative to corrosion control optimization for small and medium systems. EPA also requested comment on whether 12 months is sufficient time for a small or medium system to replace plumbing components and proposed to allow 24 months to complete the replacement before the State would determine if these systems must conduct a corrosion control study.

EPA also listed a number of questions that would need to be resolved before listing plumbing component replacement as a corrosion control technique or an alternative to corrosion control as follows:

1. What materials should be used for replacement materials, since “lead-free” products still contain lead?
2. What components would be replaced—just end-point devices such as faucets or would it also include in-line devices, such as valves and water meters?
3. What would be the enforceable WQPs for this alternative to corrosion control?
4. How would excursions from the OWQPs be measured?
5. If these techniques are listed under §141.81(c)(1) as corrosion control techniques, would all systems need to evaluate them as part of the corrosion control study?
6. For systems that fail to meet the action level, would the State still need to specify the minimum pH values, even though the system may not be adjusting pH?

Some water systems may choose to replace plumbing fixtures, pipes, and components to greatly reduce the amount of lead or copper in tap water to a level below the action level. Generally this approach only applies to water systems that have 100% ownership over the plumbing infrastructure (e.g., some NTNCWSs such as schools and other institutions). Small or medium water systems can use fixture replacement with existing provisions of the LCR to become optimized. Under §141.81(b)(1), these systems are deemed to have optimized corrosion control if they meet the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with §141.86. Thus, water systems, where 100% of the plumbing fixtures and components are directly controlled by the system, could replace them and be optimized once the system met the action level for two consecutive six-month monitoring periods.

However, because fixture replacement is not currently a type of corrosion control treatment, when a system exceeds the action level, it must initiate the treatment steps under §141.81(e) that require the evaluation of corrosion control options and the recommendation of optimal corrosion control treatment. EPA believes that there is sufficient flexibility under the current rule for systems that replace plumbing to qualify as optimized under §141.81(b)(1) without having to undertake an unnecessary evaluation of corrosion control options. Under §141.81(e)(2), after an initial action level exceedance, the system has 12 months (or two monitoring periods) before the State makes a determination about requiring a corrosion control study. Under §141.81(e)(2)(ii), where the State does not require a system to conduct a corrosion control study, a system has 24 months after the action level exceedance (or four monitoring periods) before the State specifies optimal corrosion control treatment. As a result, a water system could replace the plumbing and conduct monitoring to demonstrate that it is below the action level for two consecutive six-month monitoring periods within this 24-month period, although to do this, they would have to complete the plumbing replacement within 12 months of exceeding the action level.

In the final Rule, EPA decided not to list a fixture replacement strategy as optimal corrosion control for several reasons. As stated above, EPA believes that there is sufficient flexibility under the existing rule for some systems to pursue a fixture replacement strategy without having to undertake unnecessary treatment evaluation. Further, fixture replacement may not be successful in reducing lead below the action levels if some lead sources remain in the plumbing system. In addition,

plumbing fixture replacement is not a corrosion control technique and therefore, would not have OWQPs that could be set by the State if the system continued to exceed the action level.

1.3 POU and POE Devices as Optimal Corrosion Control Treatment

EPA requested comment as to whether use of POU or POE devices should be specifically defined as a corrosion control technique, or explicitly identified as an alternative to corrosion control optimization for small systems. EPA also requested comment on whether 12 months is sufficient time for a small system to install POU devices and proposed to allow 24 months to complete this installation before additional corrosion control treatment steps would be required. Further, EPA identified similar questions to those identified for fixture replacement that would need to be resolved before listing POU or POE as an alternative to corrosion control (refer to questions 3 through 6 in the previous section).

The SDWA identifies POU and POE devices as potential compliance technologies for small systems if they meet the following requirements: 1) they are owned, controlled and maintained by the PWS or its contractor to ensure proper operation and maintenance and compliance with the treatment technique; 2) they are equipped with mechanical warnings to ensure that customers are automatically notified of operational problems; and (3) if the American National Standards Institute (ANSI) has issued product standards applicable to a specific type of POU or POE treatment unit, individual units of that type will not be accepted for compliance with a treatment technique requirement unless they are independently certified in accordance with such standards.

EPA believes that small systems can use POU or POE devices, if they meet the SDWA requirements discussed above for their use, to comply with the LCR under existing provisions of the rule. Under §141.81(b)(1), a small or medium-size system is deemed to have optimized corrosion control if the system meets the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with §141.86. Thus, small water systems where POU devices are installed and meet the SDWA requirements could be optimized once the system met the action level for two consecutive six-month monitoring periods after their installation at all sites. Although small water systems can use POU or POE devices to meet the lead or copper action level, this method of compliance is not specified in the current LCR as a corrosion control technique. As a result, the same issue arises as discussed above with respect to plumbing replacement.

EPA decided not to list POU or POE installation as optimal corrosion control treatment for several reasons. First, EPA believes that sufficient flexibility exists under the current rule for small systems to utilize POU or POE devices to meet the action level and be deemed optimized under §141.81(b)(1). Where a State does not require a corrosion control study, systems have 24 months after an action level is exceeded before the State specifies optimal corrosion control treatment. POU or POE installation would need to be completed within 12 months of exceeding the action level in order to complete two consecutive six-month monitoring periods before the State specifies optimal corrosion control. In those instances where a study is required, small systems have a maximum of 36 months after an action level is exceeded before the State specifies this treatment. Second, unless the POU option was limited to only those systems that control 100% of the distribution system, the system may not be able to secure participation from all sites and may need to install corrosion control. Third, EPA is concerned that lead-containing plumbing materials (e.g., faucets, solder joints) may be in place after the POE device and could still contribute high lead levels if the water is corrosive.

I.4 Synchronization of WQP Monitoring

The final issue on which EPA requested comment was synchronization of WQP sampling with lead and copper tap sampling. Large systems would be required to take their required lead and copper samples at the same time they take their required WQP samples. Small and medium systems would be required to synchronize this monitoring during those monitoring periods in which they are required to collect WQP samples after the State sets OWQPs. This synchronization would allow water systems to associate changes in WQP levels with lead and copper levels and help systems monitor the effectiveness of their corrosion control program.

While many commenters supported the scientific rationale for this proposed change, a number of comments received expressed concern over which synchronization timeframe would be appropriate and the feasibility of implementing a synchronized sampling approach. Several large systems noted that this synchronization would be difficult to coordinate because homeowners collect the lead and copper tap samples and the utility does not know the exact date that they will collect samples. Some commenters noted that current WQP sampling requirements for systems on reduced monitoring require these systems to take their WQP samples throughout the year in order to capture seasonal variability. Also, because WQP monitoring for small and medium systems may be limited to those monitoring periods during which the water systems exceed an action level, these systems often delay WQP monitoring until lead and copper tap monitoring has been completed and the 90th percentile level has been calculated. Due to the complexity of issues, challenges with implementation, and potential burden, EPA has decided not to revise the LCR to require WQP synchronization at this time, but will revisit this issue in future revisions to the rule.

SECTION III: PRIMACY STATE REPORTING REQUIREMENTS AND SNC DEFINITIONS

This section provides an explanation of how the Primacy State reporting requirements have been revised in response to the Short-Term Revisions and an overview of the SNC definitions for the LCR.

A. Summary of Revised Primacy State Reporting Requirements

The purpose of this summary is to provide State Primacy Agencies with an understanding of how their reporting requirements have been impacted by the Short-Term Revisions. This guidance updates some of the reporting requirements presented in Appendix B of the October 2001 *State Implementation Guidance for the Lead and Copper Rule Minor Revisions* (EPA 816-R-01-021).



A copy of the October 2001 guidance can be downloaded at <http://www.epa.gov/safewater/lcrmr/compliancehelp.html>.

A.1 How Have State Reporting Requirements Changed?

The Short-Term Revisions have minimally impacted Primacy State reporting requirements under 40 CFR 142.15. To address these revisions, EPA has added one new violation type (to bring the total to 11) and revised the violation definitions for three violation types. EPA has not revised any of the milestone reporting requirements. These reporting changes are discussed in more detail below.

New Violation Code: EPA has added a new violation code to identify those water systems that do not meet the lead consumer notice requirements. Specifically, §§141.80(g) and 141.85(d) require all water systems to provide consumer notification of lead tap water monitoring results to individuals served at sites that were




The lead consumer notice requirement applies to all systems regardless of their lead levels.

tested within 30 days of learning the results. As previously discussed in section II.D, the notice must also include an explanation of the health effects of lead; steps consumers can take to reduce exposure to lead in drinking water; water utility contact information; the MCLG and the action level for lead; and the definitions for these two terms from the CCR Rule. The lead consumer notice must be delivered by mail or by another State-approved method (e.g., posting by NTNCWSs) to people served by the tested tap, including consumers who do not receive water bills.

Section 141.90(f)(3) requires systems to submit to the State a sample copy of the lead consumer notification and a certification that the notification meets the delivery requirements of §141.85(d) within three months after the end of the monitoring period. Systems that fail to meet the timing,

content, and delivery requirements of §141.85(d) or reporting requirements in §141.90(f)(3) will be in violation of the lead consumer notice requirements.

 **The 30-day notice applies to each lead sample result. Therefore, a system that collected 10 samples would provide 10 separate notices within 30 days of receiving each result. It would provide the State with a sample notice and one certification within 3 months after the end of the monitoring period.**

It is important to keep in mind that although the requirements for consumer notification are included under §141.85, they are considered separate from public education requirements. All systems regardless of whether they have a lead action level exceedance must provide this notification. A violation of these requirements constitutes a separate violation from those systems that do not meet the public education requirements. In addition, a lead consumer notice violation is a type of reporting violation; whereas a public education violation is a treatment technique (TT) violation. A system that fails to meet its lead consumer notice requirements is not required to deliver public notification. A system must deliver Tier 2 public notification for failure to meet its public education requirements.


 **For more information on public notification requirements, go to:**
<http://www.epa.gov/safewater/pn.html>.

Exhibit III-1 provides an explanation of the violation type code, contaminant code, and definition for a lead consumer notice violation. Examples of how to report this violation to EPA's Safe Drinking Water Information Systems/Operational Data System (SDWIS/ODS) are provided in Appendix E.

Exhibit III-1. Consumer Notification Violation			
Violation Type Code	Contaminant Code	Violation Name	Definition
66	5000	Lead Consumer Notice	Failure to meet any of the following: <ul style="list-style-type: none"> • Provide notice of lead results to individuals served by taps used for lead and copper tap monitoring in accordance with §141.85(d)(1); • Meet the timing requirements for providing the notice in accordance with §141.85(d)(2); • Meet the content requirements in §141.85(d)(3); • Meet the delivery requirements in §141.85(d)(4); and • Meet the reporting requirements in §141.90(f)(3) to send a sample notification and certification to the State.

What to Remember About this Violation:

- One single lead consumer notice violation (type 66) is reported to SDWIS/ODS regardless of the reason or reasons for the violation.
- The begin date of the violation is always 3 months plus one day after the end of the applicable monitoring period (i.e., the day after the certification is due to the State).

Therefore:

<i>If the monitoring period is:</i>	<i>The violation begin date would be:</i>
January – June	October 1 of the same calendar year
June – September	January 1 of the next calendar year
July – December	April 1 of the next calendar year

- The end date of the violation is defaulted by SDWIS/ODS to December 31, 2025.
- The end date will automatically be replaced when the State reports the date that the system has “returned to compliance.”
- A system returns to compliance when it meets the content requirements in §141.85(d)(3), the delivery requirements in §141.85(d)(4), and the reporting requirements to the State in §141.90(f)(3) .
- Return to compliance (i.e., “compliance achieved”) is reported as an SOX (State) or less commonly by EPA as EOX (federal) action type.
- The period of violation ends when either the SOX/EOX actions are reported and linked to the violation.
- If the system returns to compliance before the violation is required to be reported, do not use the end date of December 31, 2025. Instead, use the date that the system returned to compliance.

FYI.

For those systems where EPA is the Primacy Agency or in States that adopt the Rule by reference, the lead consumer notice requirements will become effective on April 7, 2008. For these systems, the earliest that a “66” violation could be reported to SDWIS/ODS is Nov. 15, 2008. This assumes that the system is monitoring during Jan. - June 2008, and receives some of its lead and copper results after April 7, 2008. The State would be become aware of the violation on Sept. 30, 2008 when the certification is due (either because the certification is late or based on the information provided in the certification). The violation would be reported on Nov. 15, 2008.

A.2 Which Violation Definitions Have Been Revised?

The October 2001 LCRMR reporting guidance provided definitions for each of the 10 pre-existing violation types. In addition, to the new lead consumer notice violation, the Short-Term Revisions impact the violation definitions for following three violation types: follow-up or routine lead and copper M/R (52), study/treatment recommendation (57), and public education (65); however, their reporting requirements have not changed.

Exhibit III-2 below provides a comprehensive list of LCR violation definitions including the new lead consumer notice violation. Those violation types that have been revised are shaded in blue.

Exhibit III-2. LCR Violation Definitions as Revised by the Short-Term Revisions

LEAD CONSUMER NOTICE (Violation Code: 66) NEW

Failure to meet any of the following:

- Provide notice of lead results to individual served by taps used for lead and copper tap monitoring in accordance with §141.85(d)(1);
- Meet the timing requirements for providing the notice in accordance with §141.85(d)(2);
- Meet the content requirements in §141.85(d)(3);
- Meet the delivery requirements in §141.85(d)(4); or
- Meet the reporting requirements in §141.90(f)(3)

INITIAL LEAD AND COPPER TAP M/R (Violation Code: 51)¹

Failure to meet any of the following:

- Use appropriate sampling procedures in accordance with §§141.86(a) and (b);
- Collect the required number of samples during the specified time frame in accordance with §§141.86(c) and (d)(1);
- Ensure samples are analyzed properly in accordance with §141.89(a), **or**
- Submit all required monitoring information on time in accordance with §141.90(a).

If you adopted the LCRMR sample invalidation and monitoring waivers provisions, the violation definition also includes systems that:

- Do not meet replacement sample requirements for invalidated samples as described in §141.86(f)(4) where these samples are needed to meet minimum sampling requirements;
- Do not meet the conditions of their monitoring waivers in §141.86(g) or provide required information in §§141.90(a)(4)(i)-(iv);²
- Do not provide sample information needed for you to perform the 90th percentile calculation as outlined in §141.90(h); **or**
- Collect non-first draw samples that do not meet the criteria in §141.86(b)(5).

¹This violation type is no longer applicable to most systems and now only applies to new systems or system that were not previously required to conduct lead and copper tap monitoring.

²The October 2001 reporting guidance incorrectly listed the citation as §141.90(a)(4)(ii) – (iv).

Exhibit III-2. LCR Violation Definitions as Revised by the Short-Term Revisions

FOLLOW-UP OR ROUTINE LEAD AND COPPER TAP M/R (Violation Code: 52)

Failure to meet any of the following:

- Use appropriate sampling procedures in accordance with §§141.86(a) and (b);
- Collect required number of samples during the required time frames in accordance with §§141.86(c) & (d)(2)-(4);
- Ensure samples are analyzed properly in accordance with §141.89(a);
- Submit all required monitoring information on time in accordance with §141.90(a);
- Do not meet replacement sample requirements for invalidated samples as described in §141.86(f)(4) where these samples are needed to meet minimum sampling requirements, *if your regulations include this provision*;
- Do not meet the conditions of their monitoring waivers in §141.86(g) or provide required information in §§141.90(a)(4)(i)-(iv), *if your regulations include this provision*;
- Do not provide sample information needed for the State to perform the 90th percentile calculation as outlined in §141.90(h);
- Collect non-first draw samples that do not meet the criteria in §141.86(b)(5), *if your regulations include this provision*;
- For systems on reduced monitoring, fail to report a long-term change in treatment, or an addition of a new source, within the time frame which you specify or as early as possible in accordance with §§141.81(b)(3)(iii), 141.86(d)(4)(vii), 141.86(g)(4)(iii), & 141.90(a)(3), *if your regulations include this provision*;
- Do not receive prior State approval before implementing the long-term change or adding the new source in accordance with §§141.81(b)(3)(iii), 141.86(d)(4)(vii), 141.86(g)(4)(iii), & 141.90(a)(3), *if your regulations include this provision*; or
- For systems on reduced monitoring, and placed on alternate lead and copper tap schedules, fail to meet the monitoring deadline when transitioning to the alternate period, *if your regulations include this provision*.

INITIAL, FOLLOW-UP, OR ROUTINE WQP M/R (Violation Code: 53)

Failure to meet any of the following:

- Use appropriate sampling procedures in accordance with §§141.87(a)(1), (b)-(e);
- Collect required number of samples in accordance with §141.87(a)(2) or (e);
- Ensure samples are analyzed properly in accordance with §141.89(a); **or**
- Submit all required monitoring information on time in accordance with §141.90(a)

If you adopted the LCRMR provision that allowed representative WQP monitoring for ground water systems, the definition also includes ground water systems that:

- Do not meet their State-approved sampling plan for collecting WQPs at representative entry point locations in accordance with §§141.87(a)(5) & (c)(2).

INITIAL, FOLLOW-UP, OR ROUTINE SOURCE WATER M/R (Violation Code: 56)

Failure to meet any of the following:

- Use appropriate sampling procedures in accordance with §§141.88(a)(1) and (2);
- Collect required number of source water samples in accordance with §§141.88(a)(1) - (e)(3);
- Ensure samples are analyzed properly in accordance with §141.89(a); **or**
- Submit all required sampling information on time in accordance with §141.90(b).

STUDY/ TREATMENT RECOMMENDATION (Violation Code: 57)

For an OCCT Study/Recommendation violation, failure to meet any of the following:

- Submit an OCCT recommendation on time in accordance with §§141.82(a) and 141.90(c)(2);
- Submit an “acceptable” study on time in accordance with §§141.82(c) and 141.90(c)(3); **or**
- Provide additional information needed by the State to make an OCCT determination in accordance with §141.82(d)(2).

For an SOWT Recommendation violation, failure to meet the following:

- Submit a SOWT recommendation no later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded in accordance with §§141.83(a)(1) & 141.90(d)(1).

Exhibit III-2. LCR Violation Definitions as Revised by the Short-Term Revisions

TREATMENT INSTALLATION/DEMONSTRATION (Violation Code: 58)

For an OCCT Installation violation, failure to meet any of the following:

- Have the State-designated treatment properly installed and operating in accordance with §141.82(e);
- Submit a certification of proper installation and operation in accordance with §141.90(c)(4), *or*
- Demonstrate that OCCT already exists in accordance with §§141.81(b)(1)-(3) and 141.90(c)(1).

For an SOWT Installation violation, failure to meet any of the following:

- Properly install and operate SOWT in accordance with §§141.83(b)(3) and (5), *or*
- Submit certification to the State of proper SOWT installation and operation, in accordance with §141.90(d)(2).

OWQP ENTRY POINT *or* TAP NONCOMPLIANCE (Violation Code: 59)

Failure to:

- Maintain OWQP minimum or ranges in accordance with §141.82(g).

If you adopted the OWQP compliance method from the LCRMR, the violation definition also includes failure to:

- Meet daily values for more than 9 days in a 6-month monitoring period in accordance with §141.82(g).

MAXIMUM PERMISSIBLE LEVEL (MPL) NONCOMPLIANCE (Violation Code: 63)

Failure to:

- Meet either State-designated or approved MPL in accordance with §141.83(b)(5).

LEAD SERVICE LINE REPLACEMENT (LSLR) (Violation Code: 64)

Failure to meet any of the following:

- Replace the required amount of lead service lines (LSLs) by the annual deadline, in accordance with §§141.84(a) & (b); *or*
- Report the required LSL information on time, in accordance with §141.90(e) that demonstrates that the replacement rate was met.

In cases of where the system does not replace the entire LSL (i.e., “partial LSLR replacement”), the LCRMR expanded the definition to include failure to:

- Provide notice and guidance to residents at least 45 days before LSLR begins (unless you allow a shorter notification period);
- Collect a tap sample within 72 hours of completing the partial LSLR;
- Mail and/or post results of the analysis to the owner and residents within 3 days of receipt of the results; *or*
- Report information that you deem necessary to assess whether the system met its partial LSLR monitoring and notification requirements.

PUBLIC EDUCATION (Violation Type: 65)

Failure to meet any of the following:

- Provide public education that meets the content requirements in §§141.85(a);
- Meet the public education delivery requirements of §141.85(b).
- Report required public education information on time, within 10 days after the end of the period in which public education was required, in accordance with §141.90(f)(1) & (2).

B. Significant Noncompliers (SNCs)

B.1 What is a SNC?

A Significant Noncomplier (SNC) is a system that has more serious, frequent, or persistent violations. The SNC designation is reserved for those systems that are considered to pose the most serious threats to public health.


B.2 Have the SNC Definitions Been Revised as a Result of the Short-Term Revisions?

The Short-Term Revisions do not affect the three SNC types or their definitions.

B.3 What Are the SNC Definitions for the Three SNC Types?


Exhibit III-3 lists the three types of SNCs, the system to which these SNCs apply, and their corresponding definitions.

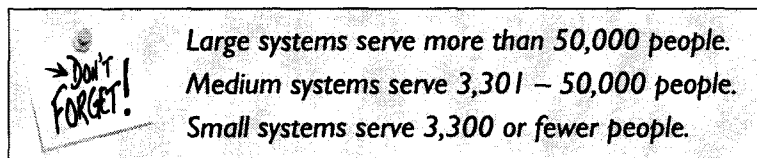
Exhibit III-3. Lead and Copper Rule SNC Definitions		
SNC Type	Systems Affected	Definition
Initial lead and copper M/R	All System Sizes	A system which failed to meet all monitoring and reporting requirements
Installation/Demonstration (OCCT and/or SOWT)	Only systems with 90 th percentile lead levels of \geq 0.030 mg/L	System with this violation & 90 th percentile lead level of \geq 0.030 mg/l in the most recent monitoring period
Public Education	Only systems with 90 th percentile lead levels of \geq 0.030 mg/L	System with this violation & 90 th percentile lead level of \geq 0.030 mg/l in the most recent monitoring period

 **A system that does not meet its lead consumer notice requirements would be assigned an "66" violation and would not become an SNC.**



SECTION IV: REVISIONS BY RULE SECTION

This section provides a summary of those rule provisions that have been revised by the LCR Short-Term Revisions and is organized by federal rule section (e.g., §141.80). A more detailed explanation of the Short-Term Revisions was provided in Section II. In addition, Appendix B provides the verbatim rule language of the Short-Term Revisions compared to the previous LCR language.


The provisions of the Short-Term Revisions fall into two general categories: 1) those provisions that States must adopt to retain primacy because they are more stringent than the current requirements and; 2) those that are not more stringent, but allow flexibility and improvements in implementation. The latter revisions are identified below with the symbol . EPA includes in the “more stringent” category all the changes in the Short-Term Revisions that clarify when specific actions must take place (e.g. clarifications concerning “monitoring periods” and “compliance periods”) because the ambiguity in the LCR may have lead to less stringent implementation of those provisions. EPA is also including as “more stringent” most of the changes to the public education provisions because those provisions work together to collectively provide more comprehensive public education than the previous version of the rule. This designation is also used in the Primacy Revisions Crosswalk in Appendix A. States are not required to adopt the less stringent changes to maintain primacy. However, some States may not be able to implement these changes until they update their own regulations.



Section 141.80 General Requirements

-  **(a)(2):** Deletes effective dates of the LCR that no longer apply.
-  **(c)(3)(v):** New section, which specifies for PWSs that collect fewer than 5 tap water samples (allowed under §141.86(c)), the 90th percentile level is the highest sample result.
- (g):** Requires systems to provide a consumer notice of lead tap water monitoring results to all consumers served by taps used for compliance monitoring.

Section 141.81 Applicability of Corrosion Control Treatment Steps to Small, Medium-Size and Large Water Systems

-  **(b)(3)(iii):** Limits the notification of a treatment change by water systems that are deemed to have optimized corrosion control to “upcoming long-term treatment changes.” *Note: States are not required to adopt that portion of the new requirement that limits prior notification and approval to only treatment changes that are long-term in nature.*

Paragraph (b)(3)(iii) also adds a new requirement for the State to review and approve the addition of a new source or long-term change in treatment before the system can implement the addition or change. *Note: States must adopt the requirement for prior review and approval of the treatment change or source addition.*

(e)(1): Clarifies that a system exceeding an action level must recommend optimal corrosion control treatment within six months after *the end of the monitoring period during which* it exceeds an action level.

(e)(2): Clarifies that the State must decide whether a system is required to conduct a corrosion control study no later than 12 months after *the end of the monitoring period during which* the system exceeds an action level.

(e)(2)(i): Clarifies that for medium-size systems that are not required to conduct corrosion control studies, the State will specify optimal corrosion control treatment within 18 months after *the end of the monitoring period during which* the system exceeds an action level.

(e)(2)(ii): Clarifies that for small systems that are not required to conduct corrosion control studies, the State will specify optimal corrosion control treatment within 24 months after *the end of the monitoring period during which* the system exceeds an action level.

Section 141.82 Description of Corrosion Control Treatment Requirements

The Short-Term Revisions do not modify the provisions in this section.

Section 141.83 Source Water Treatment Requirements

(a): Clarifies the deadline for completing initial lead and copper source water monitoring and making a treatment recommendation to the State. The new language requires these activities to be completed no later than 180 days after the end of the monitoring period during which an action level was exceeded instead of within 6 months of an action level exceedance.

Section 141.84 Lead Service Line Replacement Requirements

(b)(1): Clarifies that the first year of lead service line replacement begins on the first day following *the end of the monitoring period in which* the action level was exceeded. Also specifies that for systems that exceeded the lead action level while on a reduced monitoring schedule, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or for systems on a State-specified alternate lead and copper tap monitoring period, the end of the monitoring is the last day of that period.

(b)(2): Section 141.84(c) allows water systems to test the lead concentration of an individual lead service line. If the lead concentration in all service line samples from that line does not exceed 0.015 mg/L, the system is not required to replace this line and the line counts as being replaced. The new paragraph (b)(2) requires systems that resume a lead service line replacement program to update their lead service line inventory to include those sites that previously were deemed “replaced through testing”. Paragraph (b)(2) also requires systems to divide the updated number of remaining lead service lines by the number of remaining years in the replacement program to determine the number

that must be replaced per year. If a system has completed a 15-year or an accelerated lead service line replacement program, the State will determine a schedule for replacing or retesting lines.

(f): Updates the paragraph to reference the newly added §141.84(b)(2). *Note: This revision is not more stringent than the previous regulation but may be needed to ensure that the rule language is correctly ordered.*

Section 141.85 Public Education and Supplemental Monitoring Requirements

Introductory text: Adds a requirement for all water systems (including those with 90th percentile lead samples at or below the lead action level) to provide a consumer notice of the lead tap water monitoring results to all individuals served by the sites from which samples were collected. Also references the requirement in paragraph (c), *Supplemental monitoring and notification results*, which require PWSs that exceed the lead action level to sample the tap water of any consumer who requests it.

(a)(1): Requires CWSs and NTNCWSs to follow the same requirements regarding the content of written public education materials in paragraph (a)(1). Previously, separate CWS and NTNCWS public education content requirements were specified in paragraphs (a)(1) and (a)(2), respectively, and specific broadcast language for CWSs was provided in paragraph (b). The Short-Term Revisions also require systems to include mandatory language as written in paragraphs (a)(1)(i) (opening statement), (ii) (health effects of lead), and (vi) (contact information), and system-specific information for the text in brackets in these paragraphs. Specifies that non-mandatory language be in plain language that can be understood by the general public and be consistent with the requirements in paragraphs (a)(1)(i) through (vi). Adds a requirement for systems to submit written public education materials to the State prior to delivery and allows the State to require approval of these materials prior to delivery.

(a)(1)(i): Replaces the “Introduction” with a mandatory opening statement that stresses the importance of reading the public education materials.

(a)(1)(ii): Revises the mandatory health effects language to provide greater specificity on the health problems that can result from exposure to lead.

(a)(1)(iii)(A)-(C): Replaces the mandatory “Lead in drinking water” language with suggested topics that explain sources of lead in drinking water. These topics include: an explanation of what lead is, possible sources of lead in drinking water and how lead enters it (including information on lead-containing plumbing materials), and other important sources of lead in addition to drinking water (e.g., paint).

(a)(1)(iv)(A)-(E): Replaces the mandatory “Steps you can take to reduce your exposure to lead in drinking water” language with suggested topics that explain these steps. Recommended steps to include are: flushing the tap, concerns about using hot water (especially for preparing baby formula), explaining that boiling water does not reduce lead levels, use of alternate sources or treatment, and testing children’s blood for lead.

(a)(1)(v): Requires public education materials to explain the reason(s) for elevated levels of lead in the system’s drinking water (if known) and steps the water system is taking to reduce the lead levels in homes/buildings.

(a)(1)(vi): Revises the mandatory contact information to be included in public education materials that was previously specified in paragraphs (a)(1)(iv)(D) and (a)(2)(iv)(D).

(a)(2)(i) & (ii): Specifies additional language requirements for CWSs that include: how consumers can get their water tested, lead in plumbing components, and the difference between low-lead and lead-free materials. Note that under the previous LCR, §141.85(a)(2) contained the mandatory NTNCWS public education language.

(b): Deletes the mandatory language requirements for broadcast materials and replaces this language with revised public education delivery requirements that were previously specified in §141.85(c).

(b)(1): Requires the public education materials of systems that serve a large proportion of non-English speaking consumers, as determined by the State, to include information in the appropriate language(s) regarding the importance of the notice, or where they may obtain a translated copy of the public education materials or request assistance. Previously, systems were required to provide public education materials in other languages in those communities where a significant proportion spoke a language other than English.

(b)(2): Clarifies when public education materials must be delivered for CWSs that exceed the lead action level and are not already repeating public education tasks. These systems must deliver public education materials within 60 days after *the end of the monitoring period in which* the exceedance occurred.

(b)(2)(i): Specifies that CWSs must deliver public education materials to all bill-paying customers.

(b)(2)(ii)(A): Expands delivery of public education materials to local public health agencies (including those outside of the CWS's service area). The materials must be accompanied by an informational notice that encourages the agencies to distribute these materials to their potentially affected customers or the CWS's users. The CWS also must contact these agencies in person or by phone to request a specific list of additional community-based organizations serving target populations, which may include organizations outside the service area of the water system. If a list is provided, the CWS must deliver public education materials to all organizations on the provided lists. Note: Previously, this paragraph contained the requirement for CWSs to provide newspaper notification. This requirement has been modified and moved to paragraph (b)(2)(v).

(b)(2)(ii)(B): Maintains the requirement for CWSs to contact customers who are most at risk by delivering materials to the following organizations within their service area: 1) public schools or school boards; 2) Women, Infants, and Children (WIC) and Head Start programs; 3) public and private hospitals and medical clinics; 4) pediatricians; 5) family planning clinics; and 6) local welfare agencies. The Short-Term Revisions also require CWSs to provide an informational notice that encourages these organizations to distribute these materials to all their potentially affected customers or CWS's users and to also send the public education materials and information notice to private schools or their school boards.

(b)(2)(ii)(C): Adds a requirement for CWSs to make a "good faith effort" to locate and to deliver materials to licensed childcare centers; public and private preschools; and obstetricians-gynecologists; and midwives within their service area. The CWS must also provide an informational notice that encourages distribution to all the organization's potentially affected customers or CWS's users. A "good faith effort" may include requesting a contact list of these organizations from the local public

health agencies. However, in this instance the CWS must also deliver materials to any of these organizations that are outside its service area.

(b)(2)(iii): Requires CWSs to provide mandatory language on or in its water bill that notifies consumers that high lead levels were found at some homes and how to obtain more information. This information must be provided at least quarterly for as long as the system continues to exceed the lead action level. The water system must contact the State to modify the message or delivery mechanism (e.g., request that this information be mailed separately).

(b)(2)(iv): Adds a new requirement for CWSs that serve a population of more than 100,000 people to post public education materials on a publicly accessible Web site.

(b)(2)(v): Requires CWSs to submit a press release to newspaper, television, and radio stations. Previously CWSs had to provide PSAs to radio and television stations in addition to press releases.

(b)(2)(vi): Adds a requirement for CWSs to implement at least three activities from any of the following nine categories: 1) PSAs; 2) paid advertisements; 3) public area informational displays; 4) e-mails to customers; 5) public meetings; 6) household deliveries; 7) targeted individual customer contact; 8) direct material distribution to all multi-family homes and institutions; and 9) other methods approved by the State. The educational content and selection of these activities must be determined in consultation with the State.

(b)(2)(vii): For the purposes of delivering public education materials, defines the end of the monitoring period for CWSs that exceeded the lead action level during reduced lead and copper tap monitoring to be September 30 of the calendar year in which the sampling occurred, or, if the State has established an alternate monitoring period, the last day of that period.


(b)(3): Requires CWSs to repeat the requirements in paragraphs (b)(3)(i) through (iv) for as long as the system continues to exceed the lead action level.

(b)(3)(i): Requires CWSs to repeat the tasks in paragraphs (b)(2)(i), (ii) and (vi) every 12 months.

(b)(3)(ii): Requires CWSs to repeat the tasks in paragraph (b)(2)(iii) with each billing cycle.

(b)(3)(iii): Requires CWSs that serve a population of more than 100,000 to post and retain material on a publicly-accessible Web site as required in paragraph (b)(2)(iv).

(b)(3)(iv): Requires CWSs to repeat the task in paragraph (b)(2)(v) twice every 12 months on a schedule agreed upon with the State.

 Paragraph (b)(3)(iv) also provides an allowance for States to extend the activities in paragraph (b)(2) beyond the 60-day requirement if the extension is approved in writing by the State in advance of the 60-day deadline. *Note: This extension is only appropriate if the system has initiated public education activities prior to the end of the 60-day deadline.*

(b)(4): Clarifies when public education materials must be delivered for NTNCWSs that exceed the lead action level and are not already repeating public education tasks. Specifically, NTNCWSs must

deliver public education materials within 60 days *after the end of the monitoring period in which the exceedance occurred.*

(b)(4)(i): Moves the requirements for NTNCWSs to post informational posters on lead in drinking water from §141.85(c)(4)(i). *Note: This revision is not more stringent than the previous regulation but may be needed to ensure that the rule language is correctly ordered.*

(b)(4)(ii): Moves the requirements for NTNCWSs to distribute informational pamphlets or brochures on lead in drinking water to each person they serve and/or to use email if allowed by the State §141.85(c)(4)(ii). *Note: This revision is not more stringent than the previous regulation but may be needed to ensure that the rule language is correctly ordered.*

(b)(4)(iii): For the purposes of public education delivery, defines the end of the monitoring period for NTNCWSs on reduced lead and copper tap monitoring as September 30 of the calendar year in which the sampling occurs, or, if the State has established an alternate monitoring period, the last day of that period.

(b)(5): Requires NTNCWSs to repeat the task in paragraph (b)(4) at least once during each calendar year in which they exceed the lead action level.

- Paragraph (b)(5) also provides an allowance for States to extend the activities in paragraph (b)(4) beyond the 60-day requirement if the extension is approved in writing by the State in advance of the 60-day deadline. *Note: This extension is only appropriate if the system has initiated public education activities prior to the end of the 60-day deadline.*

(b)(6): Moves the specifications for when a PWS can discontinue or recommence the delivery of public education materials from §141.85(c)(5). *Note: This revision is not more stringent than the previous regulation but may be needed to ensure that the rule language is correctly ordered.*

- **(b)(7):** Allows a CWS to apply to the State (unless the State has waived this requirement) to exclude the text in paragraph (a)(2) and use the delivery requirements specified for a NTNCWS if its population is unable to make improvements to plumbing or install point-of-use devices; and it does not separately charge for water consumption. *Note: A similar provision was allowed under the LCRMR.*

- **(b)(8):** Allows a CWS that serves 3,300 or fewer people to limit its public education program to the requirements in paragraphs (b)(8)(i) through (iii).

- **(b)(8)(i):** These CWSs must implement at least one activity from the list of nine categories in paragraph (b)(2)(vi) (versus the requirement of three for larger CWSs).

- **(b)(8)(ii):** These CWSs may limit the distribution of public education materials required under paragraph (b)(2)(ii) to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

- **(b)(8)(iii):** Allows States to waive the requirement in paragraph (b)(2)(v) for these CWSs to provide press releases if they distribute notices to every household they serve.

(c): Moves the “Supplemental monitoring and notification of results” provision from §141.85(d).

Note: This revision is not more stringent than the previous regulation but may be needed to ensure that the rule language is correctly ordered.

(d): Contains the introductory text to the lead consumer notice requirements.

(d)(1): Adds a new requirement for all PWSs (regardless of whether they exceed the lead action level) to provide individual lead tap results to people who receive water from sites that were sampled (i.e., lead consumer notice).


(d)(2): Requires the lead consumer notice to be delivered no later than 30 days after the water system learns of the tap monitoring results.


(d)(3): Specifies that the lead consumer notice must include: the lead tap water monitoring results, an explanation of the health effects of lead, steps consumers can take to reduce exposure to lead in drinking water, water utility contact information, the MCLG and the action level for lead, and the definitions for these two terms from the Consumer Confidence Report (CCR) Rule.

(d)(4): Requires the lead consumer notice to be delivered by mail or by another State-approved method (e.g., posting by NTNCWSs) to people served by the tested tap, including consumers who do not receive water bills.

Section 141.86 Monitoring Requirements for Lead and Copper in Tap Water

(c): Clarifies monitoring requirements for PWSs with fewer than five drinking water taps that can be used for human consumption. These systems must collect at least one sample from each tap and collect additional samples from those taps on different days during the monitoring period.

 Alternatively, §141.86(c) allows the State to provide written approval for these systems to collect fewer than five samples if all taps that can be used for human consumption are sampled.

 **(d)(4)(i):** Adds language allowing systems that collect fewer than five samples (*as allowed under §141.86(c)*) and meet the lead and copper action level for two consecutive six-month monitoring periods to monitor annually. *[Note: If the State adopts this provision, it should also adopt the corresponding changes to §141.86(c).]*

Paragraph (d)(4)(i) also specifies that reduced monitoring will begin during the calendar year immediately following the second consecutive six-month monitoring period in which the system is at or below both action levels. *[Note: This provision in §141.86(d)(4)(i) **must** be adopted.]*

(d)(4)(ii): No longer allows systems that are required to collect WQPs to qualify for reduced annual lead and copper tap monitoring based on meeting their State-approved WQP ranges and values (i.e., optimal WQPs or OWQPs). Instead, systems must meet both the *lead action level* and their OWQPs during two, consecutive six-month monitoring periods. Also specifies that reduced monitoring will begin during the calendar year immediately following the end of the second consecutive six-month monitoring period, in which the system qualifies for reduced monitoring.

F.Y.I.

PWSs that exceed the copper action level, but do not exceed the lead action level and are in compliance with their OWQPs can qualify for or remain on reduced lead and copper tap monitoring.

(d)(4)(iii): Specifies that systems that are required to collect WQPs must meet both the *lead action level* and their OWQP ranges and values during three consecutive years of monitoring to qualify for reduced lead and copper triennial monitoring. Also clarifies that systems must collect their triennial samples no later than every third calendar year. *[Note: Although the Short-Term Revisions do not include specific language allowing systems that monitor triennially to collect fewer than five samples but at least one sample per tap that can be used for human consumption, EPA interprets the rules to allow this.]*

(d)(4)(iv)(A): Clarifies when monitoring must begin for a system that is on a State-specified alternate reduced monitoring period for lead and copper (i.e., system collects samples in four-month period other than June - September). The monitoring must begin during the State-specified period: in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring; and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring.

F.Y.I.

If your State regulations do not allow for monitoring waivers, you are not required to adopt the revisions in §141.86(g)(4)(i) & (iii).

(d)(4)(vi)(B): Requires system on reduced monitoring to return to standard monitoring if it fails to meet the lead action level during any four-month monitoring period or OWQP requirements for more than nine days in any six-month period. Also specifies that standard tap water sampling must begin no later than the six-month period beginning January 1 of the calendar year following the lead action level exceedance or WQP excursion.


(d)(4)(vi)(B)(1): Specifies the time period for a water system that qualifies to resume annual monitoring (i.e., meet both action levels and OWQPs for two consecutive six-month monitoring periods, and receive written State approval). The sampling must begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.



(d)(4)(vii): Limits the notification of a treatment change by water systems that are on reduced lead and copper tap monitoring to “upcoming long-term treatment changes.” *Note: States are not required to adopt that portion of the new requirement that limits prior notification and approval to only treatment changes that are long-term in nature.*

Paragraph (d)(4)(vii) also adds a new requirement for the State to review and approve the addition of a new source or long-term change in treatment before the system can implement the addition or change. *Note: States must adopt the requirement for prior review and approval of the treatment change or source addition.*

(g)(4)(i): Specifies that systems on full lead and copper tap monitoring waivers are to collect samples no later than every ninth calendar year. *[Note: This clarification was not added to §141.86(g)(4)(ii), which allows systems on partial waivers to conduct reduced lead and copper tap monitoring every nine years for the waived contaminant. However, the addition of language to (g)(4)(i) defining “every nine years” to mean that these samples must be collected by the ninth calendar year is an interpretation which applies to the entire section.]*

 **(g)(4)(iii):** Limits the notification of a treatment change by water systems that are on a full or partial tap monitoring waiver to “upcoming long-term treatment changes.” *Note: States are not required to adopt that portion of the new requirement that limits prior notification and approval to only treatment changes that are long-term in nature.*

Paragraph (g)(4)(iii) also adds a new requirement for the State to review and approve the addition of a new source or long-term change in treatment before the system can implement the addition or change. *Note: States must adopt the requirement for prior review and approval of the treatment change or source addition.*

Section 141.87 Monitoring Requirements for Water Quality Parameters

(d): Clarifies when the first six-month WQP monitoring period begins after the State specifies OWQPs. For large systems or medium and small systems on standard lead and copper tap monitoring, the first six-month period begins on either January 1 or July 1, whichever comes first, after the State specifies the optimal values. For small and medium-size systems, that were on reduced lead and copper tap monitoring, the start of the first-six month WQP monitoring period is the same as the beginning of the lead and copper tap monitoring period (e.g., for system monitoring during June - September, 2009, the start of the six-month monitoring period is June 1, 2009).

(e)(2)(i): Specifies that annual reduced WQP monitoring for qualifying systems begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurred (e.g., PWSs qualifies for annual monitoring during six-month period of January 1 - June 30, 2009, annual monitoring starts June 1, 2010). Also specifies that triennial reduced WQP monitoring must begin no later than three calendar years after the end of the monitoring period in which the system qualifies for triennial monitoring (e.g., PWS qualifies for triennial monitoring in 2009; triennial monitoring must be conducted no later than 2012).

(e)(2)(ii): Specifies that triennial WQP tap monitoring must be conducted at least every three calendar years.

Section 141.88 Monitoring Requirements for Lead and Copper in Source Water

(b): Specifies that initial source water monitoring must be conducted no later than 180 days after *the end of the monitoring period during which* the lead or copper action level was exceeded. If the exceedance occurred during reduced monitoring, defines the end of the monitoring period to be September 30 of the calendar year in which the sampling occurs, or if the State has established an alternate monitoring period, the last day of that period.

(d)(i): Specifies that triennial source water samples must be collected every third calendar year.

(d)(ii): Specifies that the first annual source water monitoring period must begin during the year in which the State specifies maximum permissible source water levels or determine that no source water treatment is needed.

(e)(1): Specifies that systems using only ground water that qualify for nine-year source water monitoring must collect these samples no later than every ninth calendar year.

(e)(2): Specifies that systems using surface water (or a combination of surface water and ground water) that qualify for nine-year source water monitoring must collect these samples no later than every ninth calendar year.

Section 141.89 Analytical Methods

(a)(iii): Provides the correct citation of §141.88(a)(1)(iv) for source water composite samples

(a)(iv): Provides the correct citation of §141.89(a)(1) for analytical specifications that must be met by laboratories.

Section 141.90 Reporting Requirements

(a)(1): Retains the requirement for systems to report tap water monitoring for lead and copper and WQP information within the first 10 days following the end of each applicable monitoring period. Clarifies the meaning of the “end of the monitoring period” for those periods that are less than six months (e.g., reduced lead and copper tap monitoring period is four months). In these instances, the end of the monitoring period is the last date samples can be collected during that period.

(a)(2): Updates the public education citations in this paragraph to be §141.85(b)(7). *Note: This revision is not more stringent than the previous regulation but may be needed to ensure that the rule language is correctly ordered.*

(a)(3): Specifies the timeframe for systems that are monitoring less frequently than semi-annually to submit written documentation that describes the addition of a new source or long-term change in water treatment. This documentation must be at a time specified by the State, or if no specific time is designated, then as early as possible prior to the addition of a new source or any long-term change in water. Previously, systems had to notify the State within 60 days after the addition of a new source or change in water treatment.

Requires States to review and approve the addition of a new source or long-term change in treatment before it is implemented by the water system. Previously, States had the discretion to require prior approval. Also includes examples of long-term treatment changes.

(e)(1): Specifies that within 12 months after *the end of a monitoring period in which* a system exceeds the lead action level, it must submit written documentation to the State of the material evaluation that identifies the initial number of lead service lines in the distribution system. Also clarifies that the initial number of lead service lines equals those lines in the distribution system when the system was triggered into lead service line replacement (i.e., the monitoring period in which the PWS exceeded the lead action level after installing corrosion control treatment and/or source water treatment, whichever is later).

(e)(2): Specifies that the system must submit documentation that it has met its replacement requirements no later than 12 months after *the end of a monitoring period in which* it exceeds the lead action level and every 12 months thereafter.

(f)(1)&(i): Updates the citations in these paragraphs to correspond to the newly renumbered public education delivery requirements in paragraph (b)(2). *Note: These revisions are not more stringent than the previous regulation but may be needed to ensure that the rule language is correctly ordered.*

(f)(3): Adds a new requirement for systems to mail a sample copy of the consumer notification of tap results and a certification that they met the distribution requirements to the State. This reporting requirement is due no later than three months following the end of the monitoring period.

Section 141.91 Recordkeeping Requirements

The Short-Term Revisions do not modify the provisions in this section.

Section 141.154 Required Additional Health Information

(d)(1): Adds language that amends the lead information to be reported in the CCR.

(d)(2): Adds language to allow a PWS to write its own educational statement in consultation with the State.

Section 142.14 Records Kept by States


(d)(8)(xi): Updates the public education citations in this paragraph to correspond to the newly renumbered delivery requirements in §§141.85(b)(7)(i) and (ii). *Note: This revision is not more stringent than the previous regulation but may be needed to ensure that the rule language is correctly ordered.*

Section 142.15 Reports by States

The Short-Term Revisions do not modify the provision in this section. However, EPA has added a new violation code to facilitate tracking of water system compliance with the new lead consumer notification requirements in §§141.80(g), 141.85(d), and 141.90(f)(3). Refer to Section III and Appendix E of this manual for more detail regarding this reporting requirement.

Section 142.16 Special Primacy Requirements

The Short-Term Revisions do not modify the provisions in this section.

 **You are not required to adopt the starred provisions. However, some States may not be able to implement these changes until they update their regulations.**

SECTION V: PRIMACY REVISION APPLICATIONS

A. State Primacy Program Revision

40 CFR Part 142 sets out requirements for States to obtain or retain primary enforcement responsibility (primacy) for the Public Water System Supervision (PWSS) Program as authorized by SDWA Section 1413. The 1996 SDWA Amendments update the process for States to obtain or retain primacy. On April 28, 1998, EPA promulgated the Primacy Rule to reflect these statutory changes (63 FR 23361).


Pursuant to 40 CFR 142.12, Revision of State Programs, complete and final requests for approval of primacy program revisions to adopt new or revised EPA regulations must be submitted to the EPA Administrator no later than 2 years after promulgation of the new or revised federal regulations (see Exhibit V-1). For the Short-Term Revisions, EPA is allowing 26 months for this submission (i.e., 2 years after the December 10, 2007 effective date of the rule). Until those applications are approved, EPA regions have responsibility for directly implementing the LCR Short-Term Revisions. The State and EPA can agree to implement the Rule together during this period. However, if a State is eligible for interim primacy, it will have full implementation and enforcement authority. States that have primacy for all existing NPDWRs are considered to have interim primacy for any new or revised regulation. Interim primacy for the Short-Term Revisions would begin on the date the final and complete primacy program revision application is submitted or the effective date of the new State regulation (whichever is later), and ends when EPA makes a final determination.

A State may be granted an extension of time, up to 2 years, to submit its application package. During any extension period, an agreement outlining the State's and EPA's responsibilities is required.

The provisions of the Short-Term Revisions fall into two general categories:

1. Provisions that States must adopt to retain primacy; and
2. Provisions that are not more stringent, but allow flexibility and improvements in implementation. States are not required to adopt these changes to maintain primacy. Some States may not be able to implement these changes until they update their own regulations.

Provisions That Must Be Adopted — These provisions became effective on December 10, 2007 and States must incorporate them into their drinking water regulations. Because the effective date for these provisions is well in advance of the deadline for State adoption of these revised requirements, EPA will take steps to enter into implementation agreements with States to ensure that the new requirements are implemented.

Provisions Designed to Improve Implementation — These provisions are effective on December 10, 2007 at the federal level. These provisions were identified in Section IV and are also marked with the symbol  in the Primacy Revision Crosswalk (see Appendix A). State regulations with more stringent requirements remain in effect in most States until the States adopt their own regulations in response to the Short-Term Revisions. EPA anticipates that States will work with their water systems to ensure that the water systems understand which requirements will be enforced in their State.

**Exhibit V-I. State Rule Implementation and Revision Timetable for the
Lead and Copper Rule Short-Term Revisions**

EPA/State Action	Time Frame
Rule published by EPA	October 10, 2007
Effective Date ¹	December 10, 2007
State and region establish a process and agree upon a schedule for application review and approval (optional)	December 10, 2007 (recommended)
Compliance Date ²	April 7, 2008
State, at its option, submits <i>draft</i> primacy program revision package including: Preliminary Approval Request Draft State Regulations and/or Statutes Regulation Crosswalk	April 10, 2008 (recommended)
EPA regional office (and Headquarters, if necessary) review draft	Completed within 90 days of State submittal of Draft (recommended)
State submits final primacy program revision package including: Adopted State Regulations Regulation Crosswalk §142.10 Primacy Update Checklist	December 10, 2009 ³
States with approved extensions submit complete and final primacy program revision package	December 10, 2011 ⁴
EPA final review and determination: Regional review (program and Office of Regional Counsel (ORC)) Headquarters concurrence and waivers (OGWDW) Public Notice Opportunity for hearing EPA's Determination	Completed within 90 days of State submittal of Final package (45 days region) (45 days headquarters) ⁵

¹ The effective date is when the Short-Term Revisions become law and amend the previous version of the LCR.

² The compliance date is when the Primacy Agency will begin implementing (and systems must begin complying with) the requirements of the Short-Term Revisions. The earliest compliance date is April 7, 2008 and will apply to those systems where EPA is the Primacy Agency or in States that adopt the Rule by reference automatically or incorporate based on the Federal publication date.

³ EPA suggests submitting a Primacy application by September 10, 2009, to ensure timely approval. The regulations provide until December 10, 2009, for this submittal.

⁴ EPA suggests submitting a Primacy application by September 10, 2011 for States with approved extensions to ensure timely approval. The regulations provide until December 10, 2011, for this submittal.

⁵ EPA Headquarters will review at least one State application per region.

A.1 The Revision Process

EPA recommends a two-step process for approval of State primacy program revisions. The steps consist of submission of a draft request (optional) and submission of a complete and final request for program approval. Exhibit V-2 diagrams these processes and their timing.

Draft Request — The State may submit a draft request for EPA review and tentative determination. The request should contain drafts of all required primacy application materials (with the exception of a draft Attorney General's Statement). A draft request should be submitted as soon as practicable; EPA recommends submitting it within 6 months of rule promulgation. EPA will make a tentative determination as to whether the State program meets the applicable requirements. EPA intends to make a tentative determination within 90 days of submission.

Complete and Final Request — This submission must be in accordance with §142.12(c)(1)(i). EPA has waived the requirement for the Attorney General's Statement of Enforceability. The State should also include its response to any comments or program deficiencies identified in the tentative determination (if applicable). Submission of only a final request may make it more difficult for States to address any necessary changes within the allowable time for State rule adoption.

EPA recommends that States submit their complete and final revision package within 23 months of rule promulgation (by September 10, 2009). This will ensure that States will have interim primacy as soon as possible and will prevent backlogs of revision applications to adopt future federal requirements.

The State and EPA region should agree to a plan and timetable for submitting the State primacy program revision application as soon as possible after rule promulgation—ideally within 2 months after promulgation.

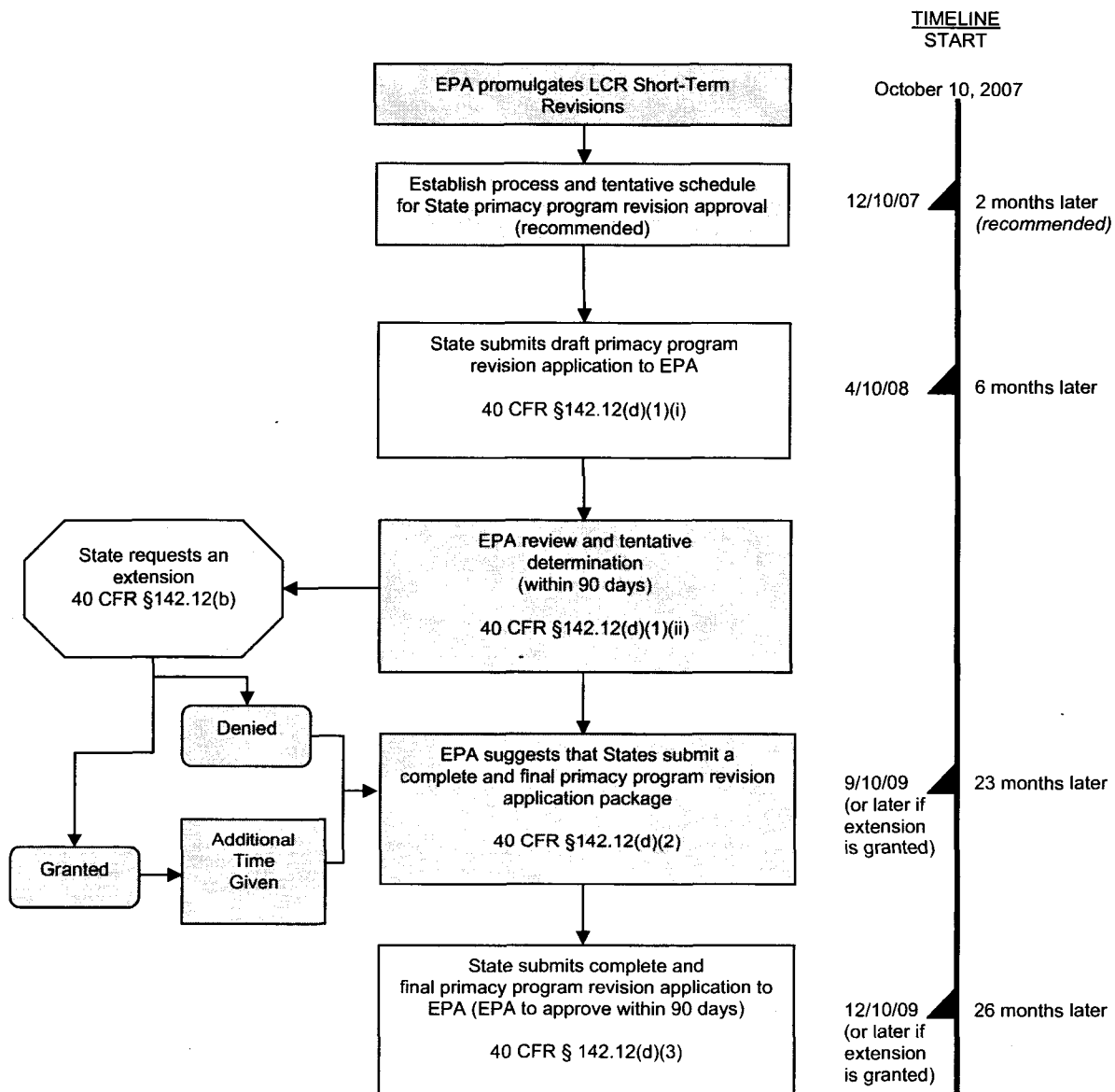
Revisions Extension — A State may be granted an extension of time, up to 2 years, to submit its application package. This process is discussed in more detail in section V-B.

A.2 The Final Review Process

Once a State application is complete and final, EPA has a regulatory (and statutory) deadline of 90 days to review and approve or disapprove the revised program. OGWDW will conduct a detailed review of the first State package from each region. The regional office should submit its comments with the State's package within 45 days for review by Headquarters. OGWDW waives concurrence on all other State programs in that region, although EPA HQ retains the option to review additional State programs, as appropriate. The Office of General Counsel (OGC) has delegated its review and approval to the Regional Counsel (RC).

To meet the 90-day deadline for packages undergoing Headquarters review, the review period is equally split by giving both the EPA regions and Headquarters 45 days to conduct their respective reviews. For the first package in each region, EPA regional offices should forward copies of the primacy program revision applications and their evaluations to the Drinking Water Protection Division Director in OGWDW no later than 45 days after State submittal. The Drinking Water Protection Division Director will take the lead on the Headquarters review process.

Exhibit V-2. Recommended Review Process for State Request for Approval of Primacy Program Revisions



B. State Primacy Program Revision Extensions

B.1 The Extension Process

Under §142.12(b), States may request that the 2-year deadline for submitting the complete and final packages for EPA approval of primacy program revisions be extended for up to 2 additional years in certain circumstances. The extension request must be submitted to EPA within 2 years of the date that EPA published the regulation. The Regional Administrator has been delegated authority to approve extension applications. Concurrence by Headquarters on extensions is not required.

Therefore, the State must either adopt regulations pertaining to the Short-Term Revisions and submit a complete and final primacy program revision application or request an extension of up to 2 years by December 10, 2009.

B.2 Extension Request Criteria

For an extension to be granted under §142.12(b), the State must demonstrate that it is requesting the extension because it cannot meet the original deadline for reasons beyond its control and despite a good faith effort to do so. A critical part of the extension application is the State's proposed schedule for submission of its complete and final request for approval of a revised primacy program. The application must also demonstrate at least one of the following:

- (i) The State currently lacks the legislative or regulatory authority to enforce the new or revised requirements;
- (ii) The State currently lacks adequate program capability to implement the new or revised requirements; or,
- (iii) The State is requesting the extension to group two or more primacy program revisions in a single legislative or regulatory action.

In addition, the State must be implementing the EPA requirements to be adopted in its primacy program revision within the scope of its current authority and capabilities.

B.3 Conditions of the Extension

Until the State Primacy Revision Application has been submitted, the State and EPA regional office will share responsibility for implementing the primary program elements as indicated in the extension agreement. The State and the EPA regional office should discuss these elements and address terms of responsibility in the agreement.

These conditions will be determined during the extension approval process and are decided on a case-by-case basis. The conditions must be included in an extension agreement between the State and the EPA regional office.

Conditions of an extension agreement may include:

- Informing PWSs of the new EPA (and upcoming State) requirements and the fact that the region will be overseeing implementation of the requirements until it approves the State primacy program revisions or until the State submits a complete and final revision package if the State qualifies for interim primacy.
- Collecting, storing, and managing laboratory results, public notices, and other compliance and operation data required by the EPA regulations.
- Assisting the region in the development of the technical aspects of enforcement actions and conducting informal follow-up on violations (telephone calls, letters, etc.).
- Providing technical assistance to PWSs.
- For States whose request for an extension is based on a lack of program capability adequate to implement the new requirements, taking steps agreed to by the region and the State to remedy the deficiency during the extension period.
- Providing the region with all the information required under §142.15 for State reporting.

Exhibit V-3 provides a checklist the EPA region can use to review State extensions or to create an extension agreement. The bolded blue text in brackets should be replaced with State-specific information.

Until the State has primacy, EPA is the primacy enforcement authority. However, historically States have played a role in implementation for various reasons - most importantly, States have the local knowledge and expertise and have established relationships with their systems.

The State and EPA should be viewed as partners in this effort, working toward two very specific public health-related goals. The first goal is to achieve a high level of compliance with the regulation. The second goal is to facilitate efficient co-regulation during the transition period before the State has primacy, including interim primacy, for the Rule. In order to accomplish these goals, education, training, and technical assistance will need to be provided to water suppliers on their responsibilities under the LCR Short-Term Revisions.

Exhibit V-3. Example Extension Request Checklist

[Date]

[Regional Administrator]

Regional Administrator

U.S. EPA Region [Region]

[Street Address]

[City, State, Zip]

RE: Request/Approval for an Extension Agreement

Dear [Regional Administrator]:

The State of [State] is requesting an extension to the date that the final primacy program revisions are due to EPA for the Lead and Copper Rule (LCR) Short-Term Revisions until [insert date – no later than December 10, 2011], as allowed by 40 CFR 142.12 and would appreciate your approval. This extension is being requested because the State of [State]:

- ☐ Is planning to group two or more primacy program revisions into a single legislative or regulatory action.
- ☐ Currently lacks the legislative or regulatory authority to enforce the new or revised requirements.
- ☐ Currently lacks adequate program capability to implement the new or revised requirements.

[State Department/Agency] will be working with EPA to implement the Short-Term Revisions within the scope of its current authority and capability, as outlined in the six areas identified in §142.12(b)(3)(i-vi):

i) Inform PWSs of the new EPA (and upcoming State) requirements and that EPA will oversee implementation of the requirements until EPA approves the State revision.

State	EPA	
_____	_____	Provide copies of regulation and guidance to other State agencies, public water systems (PWSs), technical assistance providers, associations, or other interested parties.
_____	_____	Educate and coordinate with State staff, PWSs, the public, and other water associations about the requirements of this regulation.
_____	_____	Notify affected systems of their requirements under the Short-Term Revisions.
_____	_____	Other:

ii) Collect, store and manage laboratory results, public notices, and other compliance and operation data required by the EPA regulations.

State	EPA	
_____	_____	Devise a tracking system for PWS reporting pursuant to the Short-Term Revisions.
_____	_____	Keep PWSs informed of SDWIS reporting requirements during development and implementation.
_____	_____	Report Short-Term Revisions violation and enforcement information to SDWIS as required.
_____	_____	Other:

iii) Assist EPA in the development of the technical aspects of the enforcement actions and conduct informal follow-up and violations (telephones calls, letters, etc.).

State	EPA	
_____	_____	Issue notices of violation (NOVs) for treatment technique, MCL, and monitoring/reporting violations of the Short-Term Revisions.
_____	_____	Provide immediate technical assistance to PWSs with treatment technique, MCL, and/or monitoring/reporting violations to try to bring them into compliance.
_____	_____	Refer all violations to EPA for enforcement if they have not been resolved within 60 days of the incident that triggered the violation. Provide information as requested to conduct and complete any enforcement action referred to EPA.
_____	_____	Other:

iv) Provide technical assistance to PWSs.

State	EPA	
_____	_____	Conduct training within the State for PWSs on Short-Term Revisions requirements.
_____	_____	Provide technical assistance through written and/or verbal correspondence with PWSs.
_____	_____	Provide on-site technical assistance to PWSs as requested and needed to ensure compliance with this regulation.
_____	_____	Coordinate with other technical assistance providers and organizations to provide accurate information and aid in a timely manner.
_____	_____	Other:

v) Provide EPA with all information prescribed by the State Reporting Requirements in §142.15.

State	EPA	
_____	_____	Report any violations incurred by PWSs for this regulation each quarter.
_____	_____	Report any enforcement actions taken against PWSs for this regulation each quarter.
_____	_____	Report any variances or exemptions granted for PWSs for this regulation each quarter.
_____	_____	Other:

vi) For States whose request for an extension is based on a current lack of program capability to implement the new or revised requirements, take the following steps to remedy the capability deficiency.

State	EPA	
_____	_____	Acquire additional resources to implement these regulations (list of specific steps being taken attached as [List A].
_____	_____	Provide quarterly updates describing the status of acquiring additional resources.
_____	_____	Other:

I affirm that the [State Department/Agency] will implement provisions of the Short-Term Revisions as outlined above.

_____	_____
[Director, State Primacy Agency, or Delegee]	Date

[Name of State Agency]

I approve your extension for the aforementioned regulation. I affirm that EPA Region [Region] will implement provisions of the Short-Term Revisions as outlined above.

_____	_____
Regional Administrator	Date
EPA Region [Region]	

This Extension Agreement will take effect upon the date of the last signature.

B.4 State Primacy Package

The Primacy Program Revision Application package should consist of the following sections:

- State Primacy Revision Checklist
- Text of the State's Regulation
- Primacy Revision Crosswalk

The Short-Term Revisions did not modify the State recordkeeping, reporting, or special primacy requirements in §§142.14, 142.15, or 142.16 respectively. Therefore, the primacy revision application package does not need to include a State Reporting and Recordkeeping Checklist or Special Primacy Requirements. In addition, EPA has waived the requirement for the Attorney General's Statement of Enforceability.

B.4.1 The State Primacy Revision Checklist

This section is a checklist of general primacy requirements, as shown in Exhibit V-4. In completing this checklist, the State must identify the program elements that it has revised in response to new federal requirements. **If an element has been revised, the State should indicate a "Yes" answer in the "Revision to State Program" column and should submit appropriate documentation.** For elements that did not require revision, the State need only list the citation and date of adoption in the "Revision to State Program" column. During the application review process, EPA will insert findings and comments in the final column.

The 1996 SDWA Amendments include new provisions for PWS definition and administrative penalty authority. States must adopt provisions at least as stringent as these new provisions, now codified at §§142.2 and 142.10. Failure to revise these elements can affect primacy for the LCR Short-Term Revisions.

States may bundle the primacy program revision packages for multiple rules. If States choose to bundle requirements, the Attorney General's Statement, if required, should reference all of the rules included.

B.4.2 Text of the State's Regulation

Each primacy application package should include the text of the State regulation.

B.4.3 Primacy Revision Crosswalk

The Primacy Revision Crosswalk, in Appendix A, or a comparable document must be completed by States in order to identify State statutory or regulatory provisions that correspond to each federal requirement. If the State's provisions differ from federal requirements, the State should explain how its requirements are no less stringent.

Exhibit V-4. State Primacy Revision Checklist

Required Program Elements		Revision to State Program	EPA Findings/Comments
§ 142.10	Primary Enforcement - Definition of Public Water System*		
§ 142.10(a)	Regulations No Less Stringent		
§ 142.10(b)(1)	Maintain Inventory		
§ 142.10(b)(2)	Sanitary Survey Program		
§ 142.10(b)(3)	Laboratory Certification Program		
§ 142.10(b)(4)	Laboratory Capability		
§ 142.10(b)(5)	Plan Review Program		
§ 142.10(b)(6)(i)	Authority to Apply Regulations		
§ 142.10(b)(6)(ii)	Authority to Sue in Courts of Competent Jurisdiction		
§ 142.10(b)(6)(iii)	Right of Entry		
§ 142.10(b)(6)(iv)	Authority to Require Records		
§ 142.10(b)(6)(v)	Authority to Require Public Notification		
§ 142.10(b)(6)(vi)	Authority to Assess Civil and Criminal Penalties		
§ 142.10(b)(6)(vii)	Authority to Require CWSs to Provide CCRs		
§ 142.10(c)	Maintenance of Records		
§ 142.10(d)	Variance/Exemption Conditions (if applicable) ¹		
§ 142.10(e)	Emergency Plans		
§ 142.10(f)	Administrative Penalty Authority ²		

¹New Regulations published in the August 14, 1998 *Federal Register*.

²New Requirement from the 1996 Amendments. Regulations published in the April 28, 1998 *Federal Register*.



The Short-Term Revisions did not modify the State recordkeeping or reporting requirements in §§141.14, 142.15, or 141.16 respectively. However, States must continue to comply with existing requirements that pertain to the LCR.



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